United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 90th CONGRESS, SECOND SESSION

SENATE—*Wednesday, July 17, 1968*

The Senate met at 12 noon, and was called to order by the President pro tempore.

Rabbi Joel S. Goor, Temple Beth Israel, San Diego, Calif., offered the following prayer:

Lord, Creator of all mankind, our hearts tremble within as we consider the awesome responsibility that is ours. Make us worthy of the burning trust the people have placed within our hands. We implore Thee to guide our deliberations so that no careless or conscious error of ours will result in harm to our Nation and its people, violating our sacred trust. May we always be mindful of the Supreme Judge whose throne is raised above the polling booth and whose reward exceeds office gained or temporal victory achieved.

May reason and truth permeate this session, creating an atmosphere in which men with minds open to one another, exchange ideas that are based on ideals.

Keep us from succumbing to the numbing and dulling effects that so often accompany the routine of mass enterprise, whereby men easily lose sight of their basic values and goals and, in this loss, become themselves lost. Make us conscious at all times, even when burdened with the trivia of endless detail of the sacred task that is ours, to remain sensitive of the age-old dream that for almost 200 years has burned in the breasts of America's legislative leaders, a vision that exists but in the minds of dreamers, the utterances of prophets, and the prayers and practices of men of vision—of a time when liberty will be proclaimed unto all the inhabitants of our land and there shall be no needy among us, when we shall act as if we all have one Father and we are our brothers' keeper. Then the words of the ancient prophet shall be fulfilled: "Nation shall not lift up sword against nation, neither shall they learn war anymore."

Cause us to labor as true believers in the fact that our lives and the work of our hands do indeed hasten the day when this vision of a truer world will become true of the real world. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 15, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED BILLS SIGNED

Under authority of the order of the Senate of July 15, 1968, the Secretary of the Senate, on July 16, 1968, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 2986. An act to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes;

H.R. 2756. An act for the relief of Arley L. Beem, aviation electrician's mate chief, U.S. Navy;

H.R. 10773. An act to amend section 1730 of title 18, United States Code, to permit the uniform or badge of the letter-carrier branch of the postal service to be worn in theatrical, television, or motion-picture productions under certain circumstances;

H.R. 16703. An act to authorize certain construction at military installations, and for other purposes; and

H.R. 17354. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1969, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED DURING ADJOURNMENT

Under authority of the order of the Senate of July 15, 1968, the Vice President, on July 16, 1968, signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

S. 1129. An act for the relief of Demetra Lani Angelopoulos;

S. 3102. An act to extend until November 1, 1970, the period for compliance with certain safety standards in the case of passenger vessels operating on the inland rivers and waterways;

H.R. 3400. An act to amend the Federal Aviation Act of 1958 to require aircraft noise abatement regulation, and for other purposes;

H.R. 4739. An act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, Calif., and for other purposes;

H.R. 9063. An act to amend the International Claims Settlement Act of 1949, as amended, to provide for the timely determination of certain claims of American nationals, and for other purposes;

H.R. 13402. An act authorizing the use of certain buildings in the District of Columbia for chancery purposes;

H.R. 15562. An act to extend the expiration date of the act of September 19, 1966;

H.R. 16065. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in deeds conveying certain lands to the State of Iowa, and for other purposes; and

S.J. Res. 157. Joint resolution to supplement Public Law 87-734 and Public Law 87-735 which took title to certain lands in the Lower Brule and Crow Creek Indian Reservations.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on July 16, 1968, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 1129. An act for the relief of Demetra Lani Angelopoulos;

S. 3102. An act to extend until November 1, 1970, the period for compliance with certain safety standards in the case of passenger vessels operating on the inland rivers and waterways; and

S.J. Res. 157. Joint resolution to supplement Public Law 87-734 and Public Law 87-735 which took title to certain lands in the lower Brule and Crow Creek Indian Reservations.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on July 15, 1968 the President had approved and signed the act (S. 1401) to amend title I of the Land and Water Conservation Fund Act of 1965, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the Pres-

ident of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. Joe R. Pool, late a Representative from the State of Texas, and transmitted the resolutions of the House thereon.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 752. An act to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes; and

S. 3143. An act to amend the Commodity Exchange Act, as amended, to make frozen concentrated orange juice subject to the provisions of such act.

The message also announced that the House had passed the following bills and joint resolution of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

S. 6. An act to authorize the Secretary of the Interior to construct, operate, and maintain the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, and for other purposes;

S. 1299. An act to amend the Securities Exchange Act of 1934 to permit regulation of the amount of credit that may be extended and maintained with respect to securities that are not registered on a national securities exchange;

S. 1418. An act to make several changes in the passport laws presently in force;

S. 3710. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; and

S.J. Res. 160. Joint resolution to amend the Securities Exchange Act of 1934 to authorize an investigation of the effect on the securities markets of the operation of institutional investors.

The message further announced that the House had passed the following bills of the Senate, severally with amendments, in which it requested the concurrence of the Senate.

S. 510. An act providing for full disclosure of corporate equity ownership of securities under the Securities Exchange Act of 1934;

S. 827. An act to establish a nationwide system of trails, and for other purposes;

S. 2445. An act to amend part I of the Federal Power Act to clarify the manner in which the licensing authority of the Commission and the right of the United States to take over a project or projects upon or after the expiration of any license shall be exercised;

S. 2515. An act to authorize the establishment of the Redwood National Park in the State of California, and for other purposes; and

S. 3638. An act to extend for 3 years the authority of the Secretary of Agriculture to make indemnity payments to dairy farmers for milk required to be withheld from commercial markets because it contains residues of chemicals registered and approved for use by the Federal Government.

The message also announced that the House had agreed to the amendment of the Senate to the amendment of the House to the bill (S. 1808) for the relief of Miss Amalia Seresly.

The message further announced that the House had severally agreed to the amendment of the Senate to the following bills of the House:

H.R. 4544. An act for the relief of Giovanna Ingui Dallara;

H.R. 4976. An act for the relief of Theofane Spirou Koukos;

H.R. 5704. An act to grant minerals, including oil, gas, and other natural deposits, on certain lands in the Northern Cheyenne Indian Reservation, Montana, to certain Indians, and for other purposes;

H.R. 11287. An act for the relief of Amir U. Khan; and

H.R. 13301. An act to confer U.S. citizenship posthumously upon Pfc. John R. Aneli.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 1879) for the relief of Stanislaw and Julianna Szymonik.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 9098) to revise the boundaries of the Badlands National Monument in the State of South Dakota, to authorize exchanges of land mutually beneficial to the Oglala Sioux Tribe and the United States, and for other purposes.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 798) authorizing the Clerk of the House of Representatives to make a change in the enrollment of H.R. 9098, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 163. An act to prevent vessels built or rebuilt outside the United States or documented under foreign registry from carrying cargoes restricted to vessels of the United States;

H.R. 2654. An act for the relief of Frank Kleinerman;

H.R. 5117. An act to authorize the Secretary of the Interior to construct, operate, and maintain stage 1 and to acquire lands for stage 2 of the Palmetto Bend reclamation project, Texas, and for other purposes;

H.R. 9362. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, and for other purposes;

H.R. 11026. An act to amend the act of September 15, 1960, for the purpose of developing and enhancing recreational opportunities and improving the fish and wildlife programs at reservations covered by said act, and for other purposes;

H.R. 16086. An act to amend the act of August 25, 1959 (73 Stat. 420), pertaining to the affairs of the Choctaw Tribe of Oklahoma;

H.R. 17144. An act to establish a Commission on Hunger;

H.R. 18065. An act to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations;

H.R. 18203. An act to increase the size of the Board of Directors of Gallaudet College, and for other purposes;

H.R. 18254. An act to amend further section 27 of the Merchant Marine Act, 1920; and

H.R. 18340. An act to amend section 212(B) of the Merchant Marine Act, 1936, as amended.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 18038) making appropriations for the legislative branch for the fiscal year ending June 30, 1969, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 1 through 27, and numbered 29, 31, 32, and 34, to the bill, and concurred therein, and that the House receded from its disagreement to the amendments of the Senate numbered 28 and 33 to the bill, and concurred therein, each with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

S. 660. An act granting the consent of Congress to a Great Lakes Basin Compact, and for other purposes;

S. 752. An act to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes;

S. 1260. An act to amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 81-845);

S. 1752. An act to amend the act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels;

S. 3143. An act to amend the Commodity Exchange Act, as amended, to make frozen concentrated orange juice subject to the provisions of such act;

H.R. 4544. An act for the relief of Giovanna I. Ngui Dallara;

H.R. 4976. An act for the relief of Theofane Spirou Koukos;

H.R. 5704. An act to grant minerals, including oil, gas, and other natural deposits, on certain lands in the Northern Cheyenne Indian Reservation, Montana, to certain Indians, and for other purposes;

H.R. 7481. An act to amend section 620, title 38, United States Code, to authorize payment of a higher proportion of hospital costs in establishing amounts payable for nursing home care of certain veterans;

H.R. 11287. An act for the relief of Amir U. Khan;

H.R. 13301. An act to confer U.S. citizenship posthumously upon Pfc. John R. Aneli;

H.R. 14954. An act to amend title 38 of the United States Code to improve vocational rehabilitation training for service-connected veterans by authorizing pursuit of such training on a part-time basis;

H.R. 16902. An act to amend title 38 of the United States Code in order to promote the care and treatment of veterans in State veterans' homes; and

S.J. Res. 172. Joint resolution extending the duration of copyright protection in certain cases.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H.R. 163. An act to prevent vessels built or rebuilt outside the United States or documented under foreign registry from carrying cargoes restricted to vessels of the United States;

H.R. 11026. An act to amend the act of September 15, 1960, for the purpose of developing and enhancing recreational opportunities and improving the fish and wild-

life programs at reservations covered by said act, and for other purposes;

H.R. 18254. An act to amend further section 27 of the Merchant Marine Act, 1920; and

H.R. 18340. An act to amend section 212 (B) of the Merchant Marine Act, 1936, as amended; to the Committee on Commerce.

H.R. 2654. An act for the relief of Frank Kleinerman; to the Committee on the Judiciary.

H.R. 5117. An act to authorize the Secretary of the Interior to construct, operate, and maintain stage 1 and to acquire lands for stage 2 of the Palmetto Bend reclamation project, Texas, and for other purposes;

H.R. 9362. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, and for other purposes; and

H.R. 16086. An act to amend the act of August 25, 1959 (73 Stat. 420), pertaining to the affairs of the Choctaw Tribe of Oklahoma; to the Committee on Interior and Insular Affairs.

H.R. 17144. An act to establish a Commission on Hunger; to the Committee on Labor and Public Welfare.

H.R. 18065. An act to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations; to the Committee on Foreign Relations.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF INDIAN CLAIMS COMMISSION

A letter from the Clerk, Indian Claims Commission, transmitting, pursuant to law, a report that proceedings have been concluded with respect to the following claim: Docket No. 87, the Northern Paiute Nation, Petitioners, against the United States of America, defendant (with an accompanying report and papers); to the Committee on Appropriations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the opportunity for savings in acquiring security guard and fire protection services at the Kennedy Space Center, National Aeronautics and Space Administration, dated July 15, 1968 (with accompanying papers); to the Committee on Government Operations.

LOAN APPLICATION BY SEMITROPIC WATER STORAGE DISTRICT OF BAKERSFIELD, CALIF.

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, an application by the Semitropic Water Storage District of Bakersfield, Calif., on behalf of the Buttonwillow Improvement District (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON REEVALUATION OF THE NAVIGATION FEATURES, TRINITY RIVER, TEX.

A letter from the Secretary of the Army, transmitting, pursuant to law, a report of the District and Division Engineers on the reevaluation of the navigation features of the project for the Trinity River, Tex. (with an accompanying report); to the Committee on Public Works.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on Commerce:

"S. CON. RES. 49

"Concurrent resolution relating to requesting the Civil Aeronautics Board to grant the application of Alaska Airlines to open an air route between Anchorage and Honolulu

"Whereas, Alaska Airlines has filed an application with the Civil Aeronautics Board to open a route between Anchorage and Honolulu; and

"Whereas, at the present time there is no direct line of communication, air route or otherwise, between Alaska and Hawaii; and

"Whereas, recognized agencies have indicated that tourist traffic to both Hawaii and Alaska will continue to grow at a rate approximating fifteen per cent per year and that an Anchorage/Honolulu air route could increase the annual growth rate of tourists to both Hawaii and Alaska by several percentage points; and

"Whereas, the proposed fare of Alaska Airlines between Honolulu and Anchorage will permit an East Coast passenger to visit both Anchorage and Honolulu for only $35 more than the present New York/Honolulu round-trip fare; and

"Whereas, Hawaii produces an abundance of cattle and produce—commodities which Alaska imports in tremendous amounts—and Alaska has an abundance of sea food products which are in short supply in Hawaii; and

"Whereas, the low freight rate proposed by Alaska Airlines could develop an important trade route between Honolulu and Anchorage; now, therefore,

"Be it resolved by the Senate of the Fourth Legislature of the State of Hawaii, Budget Session of 1968, the House of Representatives concurring, that the Civil Aeronautics Board be and is requested to grant the application of Alaska Airlines to open an air route between Anchorage and Honolulu as soon as possible; and

"Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to the Civil Aeronautics Board, Alaska Airlines, and to each member of Hawaii's Congressional delegation.

"We hereby certify that the foregoing Concurrent Resolution was adopted by the Senate of the Fourth Legislature of the State of Hawaii, Budget Session of 1968.

"JOHN J. CHILLUM,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate.

"We hereby certify that the foregoing Concurrent Resolution was adopted by the House of Representatives of the Fourth Legislature of the State of Hawaii, Budget Session of 1968.

"TADAO BEPPU,
"Speaker, House of Representatives.
"SHIGETO KANEMOTO,
"Clerk, House of Representatives."

A resolution adopted by the Minnesota Bankers Association, Minneapolis, Minn., relating to increased efforts toward the solution of the problems of rural Minnesota; to the Committee on Agriculture and Forestry.

A resolution adopted by the Curry County Democratic Central Committee, Clovis, N. Mex., expressing appreciation to the President, Vice President, and Congress on the action taken relating to both domestic and foreign issues; ordered to lie on the table.

A resolution adopted by the North Tampa Chamber of Commerce, Tampa, Fla., remonstrating against the enactment of gun control legislation; to the Committee on the Judiciary.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., relating to regional and intrastate programs in scientific endeavor; to the Committee on Aeronautical and Space Sciences.

Two resolutions adopted by the Southern Governors' Conference, Charleston, S.C., relating to airlift capabilities and appreciation to the Armed Forces, respectively; to the Committee on Armed Services.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., relating to air transportation; to the Committee on Commerce.

Six resolutions adopted by the Southern Governors' Conference, Charleston, S.C., relating to certain matters in the field of taxation; to the Committee on Finance.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., remonstrating against the enactment of any legislation which infringes upon the rights of the States; to the Committee on Government Operation.

Three resolutions adopted by the Southern Governors' Conference, Charleston, S.C., praying for the enactment of legislation relating to the preservation of law and order; to the Committee on the Judiciary.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., relating to the Juvenile Delinquency Act; to the Committee on Labor and Public Welfare.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., relating to water quality standards; to the Committee on Public Works.

A resolution adopted by the Southern Governors' Conference, Charleston, S.C., encouraging the Commonwealth of Puerto Rico and the Territory of the Virgin Islands to accept affiliate participation in the regional nuclear program of the Southern Interstate Nuclear Board; to the Joint Committee on Atomic Energy.

Three resolutions adopted by the Southern Governors' Conference, Charleston, S.C., offering condolences on the late Lurleen B. Wallace; the method of handling conference resolutions; and commendation of the Chairman of the Conference; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 18188. An act making appropriations for the Department of Transportation for the fiscal year ending June 30, 1969, and for other purposes (Rept. No. 1415).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

H.R. 10923. An act to authorize the Secretary of the Interior to convey the Argos National Fish Hatchery in Indiana to the Izaak Walton League (Rept. No. 1418).

By Mr. MAGNUSON, from the Committee on Commerce, with an amendment:

H.R. 25. An act to authorize the Secretary of the Interior, in cooperation with the States, to conduct an inventory and study of the Nation's estuaries and their natural resources, and for other purposes (Rept. No. 1419).

By Mr. MAGNUSON, from the Committee on Commerce, with amendments:

S. 1599. A bill to assist in the protection of the consumer by enabling him, under certain conditions, to rescind the retail sale of goods or services when the sale is entered into at a place other than the address of the seller (Rept. No. 1417).

By Mr. CLARK, from the Committee on Labor and Public Welfare, with amendments:

S. Res. 281. Resolution to establish a Select Committee on Nutrition and Human Needs (Rept. No. 1416).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 308. Resolution to provide for additional funds for the Committee on the District of Columbia;

S. Res. 314. Resolution authorizing approval by the Committee on Rules and Administration of the acceptance of foreign

decorations by Members and employees of the Senate (Rept. No. 1427);

S. Res. 317. Resolution to increase the amount of funds available for the investigation of matters pertaining to revision and codification (Rept. No. 1421);

S. Res. 318. Resolution to increase the amount of funds available for the investigation of matters pertaining to constitutional rights (Rept. No. 1422);

S. Res. 319. Resolution to increase the amount of funds available for the investigation of matters pertaining to the separation of powers between the executive, judicial, and legislative branches of Government (Rept. No. 1423);

S. Res. 320. Resolution to increase the amount of funds available for the investigation of matters pertaining to immigration and naturalization (Rept. No. 1424);

S. Res. 323. Resolution to increase the amount of funds available for the investigation of matters pertaining to administrative practice and procedure between the executive, judicial, and legislative branches of Government (Rept. No. 1425); and

S. Res. 324. Resolution to authorize the printing with illustrations, as a Senate document, a compilation of materials relating to the history of the Senate Committee on Aeronautical and Space Sciences in connection with its tenth anniversary (Rept. No. 1426).

By Mr. TYDINGS, from the Committee on the District of Columbia, with amendments:

S. 2592. A bill to amend section 521 of the act approved March 3, 1901, so as to prohibit the enforcement of a security interest in real property in the District of Columbia except pursuant to court order (Rept. No. 1431).

By Mr. TYDINGS, from the Committee on the District of Columbia, without amendment:

S. 1739. A bill to prohibit the business of debt adjusting in the District of Columbia except as an incident to the lawful practice of law or as an activity engaged in by a nonprofit corporation or association (Rept. No. 1434).

By Mr. LONG of Louisiana, from the Committee on Finance, with amendments:

H.R. 7735. An act relating to the dutiable status of aluminum hydroxide and oxide, calcined bauxite, and bauxite ore (Rept. No. 1429).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

H.R. 5233. An act for the relief of Mrs. Sophie Michalowska (Rept. No. 1430).

By Mr. BIBLE, from the Committee on the District of Columbia, without amendments:

H.R. 14330. An act to provide a comprehensive program for the control of drunkenness and the prevention and treatment of alcoholism in the District of Columbia, and for other purposes (Rept. No. 1435).

AMENDMENT OF NATIONAL SCHOOL LUNCH ACT—REPORT OF A COMMITTEE (S. REPT. NO. 1428)

Mr. ELLENDER, from the Committee on Agriculture and Forestry, reported an original bill (S. 3848) to amend the National School Lunch Act, and for other purposes, and submitted a report thereon, which bill was placed on the calendar and the report was ordered to be printed.

RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—REPORT OF A COMMITTEE (S. REPT. NO. 1432)

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably, with amendments, the bill (H.R. 10790) to amend the Public Health Service Act to provide for the protection of the public health from radiation emissions from electronic products, and I submit a report thereon. I ask unanimous consent that the report be printed, and that the bill be referred to the Committee on Labor and Public Welfare with instructions that it be reported back to the Senate by July 25, 1968.

Let me say that I have consulted on this matter with the distinguished chairman of the Committee on Labor and Public Welfare and it has his approval.

The PRESIDENT pro tempore. The report will be received and printed; and, without objection, the bill will be referred to the Committee on Labor and Public Welfare, as requested by the Senator from Washington.

AMENDMENT OF SECTION 502 OF MERCHANT MARINE ACT, 1936—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 1433)

Mr. BREWSTER. Mr. President, from the Committee on Commerce, I report favorably, without amendment, the bill (H.R. 17524) to amend section 502 of the Merchant Marine Act, 1936, as amended, relating to construction differential subsidies. I ask unanimous consent that the report be printed, together with the individual views of the Senator from Ohio [Mr. LAUSCHE].

The PRESIDENT pro tempore. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Maryland.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JORDAN of Idaho:

S. 3836. A bill for the relief of Jose Luisdamborieno; to the Committee on the Judiciary.

By Mr. HAYDEN:

S. 3837. A bill for the relief of Jack Gray, Henry Gray, and Robert Louis Gray; and

S. 3838. A bill for the relief of Mary Abelida Davis; to the Committee on the Judiciary.

By Mr. BIBLE:

S. 3839. A bill for the relief of Jose Maria Gandiaga Iruetaguena; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3840. A bill for the relief of Crispulo C. Cordero; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 3841. A bill for the relief of Alisa Ramati;

S. 3842. A bill for the relief of Lewis, Levin & Lewis, Inc.; and

S. 3843. A bill for the relief of Dr. Manuel A. Gongon; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 3844. A bill for the relief of Yip Goon Hop (also known as Tommy H. Yep); to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3845. A bill to amend the Merchant Marine Act, 1936, to provide for resolution of "fair and reasonable" wage subsidy disputes and to provide for changes in the procedures for paying operating differential subsidies; and

S. 3846. A bill to amend the Shipping Act, 1916, to convert criminal penalties to civil penalties in certain instances and for other purposes; to the Committee on Commerce.

(See the remarks on Mr. MAGNUSON when he introduced the above bills, which appear under a separate heading.)

By Mr. MORSE:

S. 3847. A bill to authorize the Secretary of Agriculture to purchase wheat on the futures market in order to prevent depressed wheat prices; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. MORSE when he introduced the above bill, which appear under a separate heading.)

By Mr. ELLENDER:

S. 3848. A bill to amend the National School Lunch Act, and for other purposes; placed on the calendar.

(See reference to the above bill when reported by Mr. ELLENDER, which appears under a separate heading.)

By Mr. TALMADGE:

S. 3849. A bill for the relief of Mohamed Hussien Teymour; to the Committee on the Judiciary.

By Mr. GRIFFIN:

S. 3850. A bill for the relief of Dr. Devendra Saksena; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mr. AIKEN):

S. 3851. A bill to amend the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. MONDALE:

S. 3852. A bill for the relief of Mrs. Swarna Mary Evangeline Abeyesundere, her husband, Susil Abeyesundere, and their son, Soresh, G.; to the Committee on the Judiciary.

By Mr. DODD:

S. 3853. A bill for the relief of Joaquin Inacio Neves; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 3854. A bill for the relief of Chu Chi Kit; to the Committee on the Judiciary.

By Mr. BROOKE:

S. 3855. A bill for the relief of Ti-Ke Shen; to the Committee on the Judiciary.

By Mr. MORSE:

S.J. Res. 190. Joint resolution to authorize the President to issue a proclamation designating the period beginning September 2, 1968, and ending September 8, 1968, as "Adult Education Week"; to the Committee on the Judiciary.

(See the remarks of Mr. MORSE when he introduced the above joint resolution, which appears under a separate heading.)

By Mr. JORDAN of North Carolina:

S.J. Res. 191. Joint Resolution authorizing the erection of a statue of Benito Pablo Juarez on public grounds in the District of Columbia; to the Committee on Rules and Administration.

S. 3845—INTRODUCTION OF BILL TO AMEND THE MERCHANT MARINE ACT, 1936

Mr. MAGNUSON. Mr. President, I introduce, by request of several U.S.-flag steamship operators, for appropriate reference, a bill to amend the Merchant Marine Act, 1936, to provide for resolution of "fair and reasonable" wage subsidy disputes and to provide for changes in the procedures for paying operating differential subsidies.

I ask unanimous consent that a memorandum explaining the background and provisions of the proposed bill be inserted in the RECORD following my remarks.

The PRESIDENT pro tempore. The bill will be received and appropriately re-

ferred; and, without objection, the memorandum will be printed in the RECORD.

The bill (S. 3845) to amend the Merchant Marine Act, 1936, to provide for resolution of "fair and reasonable" wage subsidy disputes and to provide for changes in the procedures for paying operating differential subsidies, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The memorandum, presented by Mr. MAGNUSON, is as follows:

MEMORANDUM IN SUPPORT OF S. 3845—"FAIR AND REASONABLE" AND OPERATING-DIFFERENTIAL SUBSIDY PAYMENT REFORMS

The basic plan of the operating-differential subsidy portion of the Merchant Marine Act of 1936 was a simple one. If a steamship operator would agree to fly the U.S.-flag on his vessel and thereby accept the requirement of using U.S. citizen crews, the Government promised to equalize his crew costs by determining what it would cost his principal foreign competitors to man his vessel and paying the shipowner the difference between that amount and the actual cost of his U.S. crew.

The bargain reached on this issue worked well for a considerable number of years. It now appears for the first time that operating subsidy payments will, if the announced position of the Maritime Administration is carried out, fall substantially short of parity, so much so that the financial integrity of some of these companies may be threatened. This results from the interpretation the Maritime Administration is giving the provision of Section 603(b) of the Merchant Marine Act that subsidized shipboard costs must be "fair and reasonable".

While this legislative problem could possibly be best handled in the context of an over-all maritime revitalization program, it appears now that Congress will be unable to enact such a program this year. In the meantime, however, the subsidy disallowance problem is getting so serious that it has seemed imperative to have immediate legislative relief that would handle this pressing issue until over-all legislative reform is enacted.

The proposed bill amends the operating-differential subsidy provisions of the 1936 Act by adding subsections (d) and (e) to Section 603. The effect of this change is as follows:

Sec. 603(d)—Many of the benefits labor obtains today in collective bargaining are not purely wages but are nevertheless a real part of the cost of manning a vessel with a U.S. crew. Thus, for example, the maritime industry has agreed in connection with the automation of its vessels to support training programs to upgrade men to handle these more complex ships. Training has also been financially supported to meet crew shortages. Funds have been created to cushion the impact of reduced employment due to automation in the industry. The Maritime Administration staff has disallowed or left unapproved and in doubt many of such costs. Clearly they are a part of the total labor cost of operating a U.S.-flag ship and, hence, a part of the differential that must be made good under the 1936 Act. Subsection (d) would make it clear that all such costs are a part of the wage costs of the operator.

Sec. 603(e)—Section 603(b) of the Act requires that shipboard wages being subsidized must be "fair and reasonable". For 25 years this provision caused no trouble. Starting in 1964, however, the threat of disallowance of many labor costs arising out of collective bargaining began. Since then both by decision of the Maritime Subsidy Board and by threat the industry is in the intolerable position of not knowing what portion of its shipboard wage costs will or will not be subsidized. Millions of dollars that the operators have paid out in U.S. crew costs and which should be reimbursed under the 1936 Act are now in doubt. Financial reports to the steamship companies' shareholders are increasingly difficult to make. If the threats of disallowance were made good in their entirety, some of the companies, already in a poor earning position, could be driven to the wall. An enormous financial cloud over the industry that is assuming alarming proportions must be dissipated promptly if the one viable portion of the merchant marine is to survive.

Steamship owners are required by the law of the land to bargain with unions on their vessels. In the ten year period from 1953 to 1962 the maritime industry has more man-days lost due to strikes than any other industrial group in the United States. The 1965 agreements which are under serious question by the Maritime Administration as to their fairness and reasonableness arose out of a 78-day strike that was finally settled by the President of the United States. In fact most of the bargains reached through the years were worked out by federal mediators, in some instances by the White House and the Secretary of Labor. Yet these very costs are now being attacked as unfair and unreasonable. The impact of automation has been said by Federal officials and studies to raise sociological problems and that industry must cushion the effects of automation.

It is tempting to resolve this problem simply by saying that the results of all *bona fide*, arm's length collective bargaining shall be "fair and reasonable" *per se*. Instead, the proposed bill would take the "fair and reasonable" question out of the hands of the Maritime Administration and place it in the hands of the Secretary of Labor. The Department of Labor sees the broad sweep of labor costs and agreements in the country. It has the Bureau of Labor Statistics to assist it in reviewing these labor agreements. Furthermore, its Mediation and Conciliation Service has been involved in most major maritime labor disputes and it knows at first hand whether the collective bargain in question was the result of hard, arm's length bargaining. In short, the proposed bill would turn over the question of wage cost "fair and reasonableness" to the department of the Government with the real expertise in this field.

This new procedure would be applied to all pending and future "fair and reasonable" issues. To avoid stale issues being raised, disputes in which the Maritime Administration had already ruled against the shipowner would come under the new procedure only if the time for court appeal of the decision had not run.

S. 3846—INTRODUCTION OF BILL TO AMEND THE SHIPPING ACT, 1916

Mr. MAGNUSON. Mr. President, I introduce, for appropriate reference, a bill to amend the Shipping Act, 1916, to convert criminal penalties to civil penalties in certain instances and for other purposes.

I ask unanimous consent to have printed in the RECORD a letter from the Chairman of the Federal Maritime Commission, requesting the proposed legislation, together with a statement of the purposes and need for the proposed legislation.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter and statement will be printed in the RECORD.

The bill (S. 3846) to amend the Shipping Act, 1916, to convert criminal penalties to civil penalties in certain instances, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and statement, presented by Mr. MAGNUSON, are as follows:

FEDERAL MARITIME COMMISSION,
Washington, D.C., July 5, 1968.

Hon. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There are submitted herewith four copies of a proposed bill, to amend the Shipping Act, 1916, to convert criminal penalties to civil penalties in certain instances.

The need for and purpose of the proposed bill are set forth in the accompanying statement.

The Federal Maritime Commission urges enactment of this bill at the second session of the 90th Congress for the reasons set forth in the accompanying statement.

The Bureau of the Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

JOHN HARLLEE,
Rear Admiral, U.S. Navy (retired),
Chairman.

STATEMENT OF PURPOSES AND NEED FOR THE BILL TO AMEND THE SHIPPING ACT, 1916, TO CHANGE CRIMINAL PENALTIES TO CIVIL PENALTIES, AND AUTHORIZE THE COMMISSION TO FIX, ASSESS OR REMIT PENALTIES

The bill would change the penalties of section 16 (except for section First and Third) of the Act from criminal penalties to civil penalties, with the money amounts of the penalties to remain unchanged. It also makes a similar change in the general penalty provision of section 32 of the Act and vests the authority in the Commission to fix the amount of the penalty. Since the bill would authorize the Commission to assess civil penalties, sections 15 and 18(b)(6) would be amended to eliminate the words "to be recovered by the United States in a civil action."

As the Act now stands, civil penalties are imposed for violations of section 15, which requires the filing for approval of competition restricting agreements and of section 18(b), which requires the filing of tariffs. However, the penalties of section 14, which prohibits deferred rebates and other unfair practices, and section 16, which prohibits false billing and undue preferences, are criminal.

The Commission believes that better administration of the Act will be derived from making certain of the penalties under section 16 and penalties under section 32 civil and empowering the Commission to determine and adjudge such penalties. The Commission determinations under these sections are subject to judicial review in a United States Court of Appeals under the Review Act of 1950 (5 U.S.C. 131 *et seq.*). This would eliminate the necessity of a *de novo* district court penalty suit as is presently required and would enable the Commission to relate the amount of the penalty directly to the nature and circumstances of the violation. Such a procedure should, in many instances, reduce the total litigation expenses to both the government and private parties while at the same time retaining the safeguards of justice through the reviewability of Commission decisions in U.S. Courts of Appeals.

S. 3847—INTRODUCTION OF BILL RELATING TO PREVENTION OF DEPRESSED WHEAT PRICES

Mr. MORSE. Mr. President, I want to talk very briefly about a very important agricultural problem that confronts all the wheat growing sections of this Na-

tion. I shall speak on it under the subject of "Establish Floor Price for Wheat."

Mr. President, for some perverse reason, we as a government seldom choose to do things in a clear and simple way. We take the long way, the complex way, the uncertain way. We do not cut straight through to the heart of the matter.

We want our farm economy to flourish, our farm families to have more income and a better life; we want more adequate rural-urban balance. We want all of our people to be well fed. Our agriculture does provide abundant food of high quality for use at home and abroad. Americans spent less than 18 percent of their disposable income for food in 1967, less labor-time for an abundant diet than elsewhere in the world. We want reserves of agricultural materials, substantial reserves to meet the challenge of a drought year at home, or a vital short fall in India or other nations across the seas. We have those reserves and the present evidence is that we shall continue to have them in abundance. Our farmers have met the food and fiber needs of war and peace magnificently. We need not document that fact here today.

What we have not managed to achieve, along with this great outpouring of abundance, is a fair share of opportunity and income for the farm sector of our economy. For more years than I like to recall we have made various attempts to right this wrong, to share the good things of our technical civilization with those who till the soil. We need not, here and now, recount the programs which have been legislated since the 1930's—they are numerous and, on balance, have been helpful. Yet in 1967, in spite of, even because of, the great abundance which our farmers created for all of us to enjoy, they suffered a drop of nearly 10 percent in realized net income as compared with the preceding year. Production costs have increased nearly one-third in the 1960's. The parity ratio is below 80 percent of an equitable level.

I presume that several of you have heard from the country that the price of wheat on our domestic markets has declined to a 26-year low. This is the peak of the harvest season movement of Hard Winter wheat. The cash price for No. 2 ordinary Hard Winter wheat at Kansas City last Friday, July 12, was only $1.36½. At the farm, it hardly brought 2 cents per pound—for some of the best bread wheat the world provides. This perhaps is not quite so low as the price of sand and gravel, but it is just too low to be tolerable in the face of long continued and continuing inflation. After 26 years, the price of this high quality food raw material might be expected to register some part of the significant inflation which has occurred during that period, even in bread prices.

My proposal is that we proceed directly and effectively to establish a floor price for wheat by authorizing and funding the Commodity Credit Corporation to operate in the wheat futures markets when certain trigger prices are reached. We are aware that there are understandable local and regional variations in prices—variations related to types and abundance—as well as fluctuations related to seasonal marketings and prospective supply-demand conditions. For those reasons it would seem best to authorize the use of the futures markets by the CCC with only very general guidelines, leaving the administrative details of day-to-day operations to the Corporation.

To me, this appears to be a direct and comparatively simple approach to the farmers' price problem in wheat growing. With a price floor which will become directly operative only when speculation or heavy hedging forces the market into the lower part of its probable range, the use of futures markets would appear to be a practical and inexpensive way of supporting that floor.

The proposal is simple and direct because the basic market machinery is now set up and in use every market day. Domestic wheat futures markets are found at Chicago, Kansas City, and Minneapolis. These are large, active markets handling futures contracts for many millions of bushels of wheat in a single day. In order that we may be more fully aware of the fluidity of these markets, that they will not be unduly affected by the purchase and sale of contracts for a few millions of bushels of wheat, it may be noted that trading on last Thursday—July 11—at the Chicago market included contracts for 28,510,000 bushels of wheat. And that was not a "large" day. The so-called open interest or contracts made but not yet closed out by delivery or an offsetting transaction totaled 144,305,000 bushels of wheat, of which about 20,000,000 bushels of the open contracts were as far forward as May 1969. This, too, is a rather low interest situation.

The Chicago futures market for wheat is not only the largest of the three, but may be described as the least specialized, or the general utility market. It permits delivery, at contract price, of No. 2 Hard Winter, No. 2 Soft Red Winter, No. 2 Yellow Hard Winter and No. 1 Northern Spring. Certain other grades of the foregoing are deliverable at fixed premiums or discounts to the contract price. This is the great Soft Red Winter wheat market, though in some seasons minor amounts of Hard Red Winter and Yellow Hard Winter are delivered. As is usual, most of the contracts are moved forward or otherwise closed out before the delivery month, though all deliveries on contract in a year range from about 20 million to 75 million bushels.

The Kansas City wheat futures market is only about one-fifth as large as that at Chicago. It is primarily a hedger's market and contracts call for delivery of No. 2 Dark and Hard Winter wheat at the contract price. The July 1968 future now approximates $1.34 per bushel, having been as high as $1.64⅞ and as low as $1.30 per bushel at one time or another during the contract period.

The Minneapolis Grain Exchange futures contract is based on No. 2 Northern Spring wheat of 13.5 percent protein and only Spring wheat may be delivered on contract. It accounts for not more than about one-tenth the trading volume experienced at Chicago.

As I said earlier, the machinery is in existence and in use. What is required is authorization and funding. Though funding should be fully adequate, I am inclined to the opinion that once the trigger point, the floor price, is known, psychology will largely take care of the situation. It seems unlikely that hedgers or speculators would press the market very hard on the downside once it were near the trigger price, for their likelihood of significant financial gains by such operations at that price level would hardly outweigh the chance of loss. Thus the market would be stabilized and its erratic fluctuations on the lower side very probably reduced.

We may be certain there will be objections—well stated objections—to the proposal. Some will claim undue and improper interference with the free market. Some will fear manipulation of the market by the CCC through large volume and concentrated buying of futures. Some, indeed, will oppose the seasonal stability proposed for wheat prices at harvest time which would probably result.

It is clear enough that skilled operation by the CCC would be required if the proposed program is not to be considered as "market rigging." Decisions regarding the moving of contracts forward, acceptance of delivery, and especially, volume of trading to be initiated at any particular market on a particular day would be of critical importance. This is a direct action proposal, not without probable opposition and criticism, but, nevertheless, sufficiently promising to be worthy of a good faith trial in providing equitable income to our wheat farmers.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in my remarks.

The PRESIDENT pro tempore. The bill will be received and appropriately referred, and, without objection, the bill will be printed in the RECORD, in accordance with the request of the Senator from Oregon.

The bill (S. 3847) to authorize the Secretary of Agriculture to purchase wheat on the futures market in order to prevent depressed wheat prices, introduced by Mr. MORSE, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 3847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Secretary of Agriculture determines that such action is necessary in order to prevent the price of wheat on the futures market from declining to a level which would have a serious adverse effect on the domestic wheat market, he is authorized to purchase (and accept delivery) and to sell such quantities of wheat on the wheat futures market as he deems necessary to maintain the price of wheat at an economically sound level. The provisions of this Act shall be carried out through the Commodity Credit Corporation; and the services, facilities, and funds of such Corporation shall be available for such purpose.

Mr. MORSE. I recognize full well that I am making only an educational speech today as far as possible action before we adjourn is concerned. Nevertheless, I should like to see the bill go to committee forthwith. I should like to have the committee put the staff to work on the

preparation of a report with respect to consideration by the committee, and, if any hearings at all can be held before adjournment, I wish we might have a day or two of hearings. If not, I hope we can have at least 2 or 3 days of hearings during the interim period this fall, and preparation of a hearing record for consideration next January.

SENATE JOINT RESOLUTION 190—INTRODUCTION OF ADULT EDUCATION WEEK JOINT RESOLUTION

Mr. MORSE. Mr. President, I introduce, for appropriate reference, a joint resolution to authorize the President to issue a proclamation designating the period beginning September 1, 1968, and ending September 8, 1968, as "Adult Education Week."

I ask unanimous consent that the joint resolution be printed in the RECORD at the close of my remarks. A companion joint resolution, identical to this, has been introduced on the House side by Representative PERKINS, of Kentucky, the chairman of the House Committee on Labor and Education. It is, on the House side, House Joint Resolution 1319.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Mr. President, adults produce our goods and services and at the same time they are consumers of our goods and services. They rear our children and future leaders. They run our schools, churches, factories, farms, hospitals, unions, and other organizations. They serve in government at the Federal, State, and local levels including the defense of our country. They vote, make, change, obey, enforce, and carry out our laws.

The complexity and pace of modern life requires at least the equivalent of an eighth-grade education, yet according to our last census 18 million, or one out of seven American adults, lack this basic requirement of living.

Further, the adult entering the work force today will change jobs four to six times before the age of 65. Increasing numbers of job skills are being made obsolete. Thus, the need for training and retraining has mushroomed.

Adult education is not a preparation for life as elementary, secondary, and college education are. Adult education is a vital ingredient to living a productive, responsible, satisfying, and fulfilling life.

Adult or continuing lifelong learning are keys to achieving a truly human and humane existence—a self-fulfilling life—free of prejudice, war, poverty, ignorance, disease, and drudgery.

We have an American Education Week which focuses on elementary and secondary education. We do not have a week that focuses on adult education. Therefore, I would like to introduce the following resolution calling for the week of September 2–8, 1968, to be designated as Adult Education Week.

I would further like to call attention to the fact that September 8 has been designated by UNESCO as International Literacy Day. It is indeed appropriate that the U.S. Congress and the President of the United States give recognition to all of our formal and informal adult education institutions and organizations.

Mr. President, I introduce the joint resolution to emphasize that desirable objective.

The PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 190) to authorize the President to issue a proclamation designating the period beginning September 2, 1968, and ending September 8, 1968, as "Adult Education Week," introduced by Mr. MORSE, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 190

Whereas education, training, and jobs for the poor permit the people of the United States to exercise their indispensable rights—to earn a respectable living and to be accepted as equally productive members of the society; and

Whereas the complexity of life has been immeasurably heightened by the growth of knowledge, technology, new means of mobility, and communication; and

Whereas all adults can profitably continue their education to assist them in employment skills and meeting their responsibilities as parents and citizens; and

Whereas high-quality, comprehensive and continuing education to meet existing and new needs of adult learners is a fruitful investment for the vitality, security, and prosperity of our citizens and our Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period beginning September 2, 1968, and ending September 8, 1968, as "Adult Education Week", and calling upon the people of the United States, especially the educational community, to observe such week with appropriate ceremonies and activities.

SENATE RESOLUTION 375—RESOLUTION TO PRINT A REVISED EDITION OF THE COMPILATION "FEDERAL CORRUPT PRACTICES AND POLITICAL ACTIVITIES" AS A SENATE DOCUMENT

Mr. CANNON, from the Committee on Rules and Administration, reported an original resolution (S. Res. 375); and submitted a report (No. 1420) thereon, which was ordered to be printed, and the resolution was placed on the calendar, as follows:

S. RES. 375

Resolved, That a revised edition of Senate Document Numbered 68 of the Eighty-eighth Congress, entitled "Federal Corrupt Practices and Political Activities" be printed as a Senate document; and that there be printed four thousand additional copies of such document for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 376—RESOLUTION TO PAY A GRATUITY TO ADA S. ANDERSON

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 376); which was placed on the calendar:

S. RES. 376

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ada S. Anderson, widow of William H. Anderson, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate she was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 377—RESOLUTION TO REFER SENATE BILL 3758 TO THE U.S. COURT OF CLAIMS

Mr. TYDINGS submitted the following resolution (S. Res. 377); which was referred to the Committee on the Judiciary:

S. RES. 377

Resolved, That the bill (S. 3758) entitled "A bill for the relief of Gisela Hanke," now pending in the Senate, together with all the accompanying papers, is hereby referred to the chief commissioner of the United States Court of Claims; and the chief commissioner of the United States Court of Claims shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code, and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 378—RESOLUTION ON DEATH OF HON. JOE R. POOL, OF TEXAS

Mr. YARBOROUGH submitted a resolution (S. Res. 378) relative to the death of Representative Joe R. Pool, of Texas, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. YARBOROUGH, which appears under a separate heading.)

EXTENSION AND AMENDMENT OF THE RENEGOTIATION ACT OF 1951—AMENDMENTS

AMENDMENT NO. 887

Mr. PROXMIRE. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (H.R. 17324) to extend and amend the Renegotiation Act of 1951. This amendment is in two parts. Subparagraph (1) exempts the Renegotiation Board from the limitation on number of employees provided in section Control Act of 1968. Subparagraph (2) provides that, in applying section 201 to other agencies, the Renegotiation Board shall not be taken into account. The purpose for this language is to prevent the exemption for the Board from having any adverse impact on other agencies.

The urgent need to exempt the Renegotiation Board from the limitation on employees provided in section 201 of the Revenue and Expenditure Control Act of 1968 becomes clear after an analysis of

the Board's workload and the way in which it increases.

First. The work of the Board is directly related to the level of Government procurement, primarily military procurement. Any substantial increase in military procurement eventually causes a similar increase in the Board's workload. In fact, there has been a very sharp increase in military procurement in the past few years resulting from the demands created by the Vietnam war. *Prime contract* awards by the DOD in fiscal year 1965 were $28 billion, for fiscal year 1967 they were $44.6 billion, and for fiscal year 1968 they are estimated to have been $45 billion. This amounts to a 60-percent increase in military procurement since 1965. During the same period, military procurement contracts performed by subcontractors increased from $8.5 billion to $15.4 billion, an increase of 80 percent.

Second. These increases in military procurement show up in the renegotiable sales reviewed by the Board, after the normal time lag that occurs between the contract awards and the filings by the contractor. Renegotiable sales increased from $31.8 billion in fiscal year 1966, to $33.1 billion in fiscal year 1967, to an estimated $40.3 billion in fiscal year 1968. Further, this figure is estimated to rise to $44.5 billion in fiscal year 1969. Renegotiable sales is a major indicator of the workload of the Board.

Third. A second major indicator is the number of filings received from contractors. This number rose from 3,673 filings received in fiscal year 1965, to 3,737 in fiscal year 1967, to 4,552 in fiscal year 1968. There will be an estimated 4,800 filings in fiscal year 1969.

Fourth. A third indicator is the number of cases assigned by the Washington office to the regional boards for full development. Excessive profits are ultimately recovered from these cases. The number of referrals has risen from 355 in fiscal year 1965, to 444 in fiscal year 1966, to 635 in fiscal year 1967, to 827 in fiscal year 1968.

The tremendous upsurge of casework before the Board is also reflected in the backlog of cases which was 422 in fiscal year 1965, was 678 in fiscal year 1967, and will be an estimated 938 in fiscal year 1968.

It is only reasonable that the Board's capability in terms of number of employees is allowed to expand to meet the obvious increase in workload. This, in fact, is the intention of the current appropriation approved by Congress—$3 million, up about $600,000 over last year—which permits the Board to have 210 employees. At present, there are 185 employees. But under section 201 of RECA, it would have to roll back to 172 employees.

In summary, the Board's workload and its need for personnel is directly related to the level of military procurement. As military procurement increases, and it has sharply increased since 1965, the Board's ability to perform its function becomes strained unless it can hire additional employees. Its current appropriation recognizes this need and permits it to hire additional people. It would be inconsistent and unreasonable for Congress to appropriate the funds to hire more people with one hand, and prevent it from so doing with the other.

The PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENTS NOS. 889 AND 890

Mr. LONG of Louisiana submitted two amendments, intended to be proposed by him, to House bill 17324, supra, which were ordered to lie on the table and to be printed.

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO DEPARTMENT OF TRANSPORTATION APPROPRIATION BILL, 1969

AMENDMENT NO. 888

Mr. STENNIS submitted the following notice in writing:

In accordance with rule XI, of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 18188) making appropriations for the Department of Transportation for the fiscal year ending June 30, 1969, and for other purposes, the following amendment, namely: page 18, after line 2, insert the following:

"SEC. 208. Positions which are financed by appropriations in this Act which are determined by the Secretary of Transportation to be essential to assure public safety through the operation of the air traffic control system of the Federal Aviation Administration may be filled without regard to the provisions of section 201 of Public Law 90–364."

Mr. STENNIS also submitted an amendment, intended to be proposed by him, to House bill 18188, making appropriations for the Department of Transportation for the fiscal year ending June 30, 1969, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

INDEPENDENT OFFICES AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATION BILL, 1969—AMENDMENTS

AMENDMENT NO. 891

Mr. BYRD of Virginia submitted an amendment, intended to be proposed by him, to the bill (H.R. 17023) making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1969, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 892

Mr. SPARKMAN (for himself, Mr. CLARK, Mr. SCOTT, and Mr. HATFIELD) submitted an amendment, intended to be proposed by them, jointly, to House bill 17023, supra, which was ordered to lie on the table and to be printed.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, July 17, 1968, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 660. An act granting the consent of Congress to a Great Lakes Basin compact, and for other purposes;

S. 752. An act to amend sections 203(b)(5) and 220 of the Interstate Commerce Act, as amended, and for other purposes;

S. 1260. An act to amend the Northwest Atlantic Fisheries Act of 1950 (Public Law 81–845);

S. 1752. An act to amend the act prohibiting fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels;

S. 2986. An act to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes;

S. 3143. An act to amend the Commodity Exchange Act, as amended, to make frozen concentrated orange juice subject to the provisions of such act; and

S.J. Res. 172. Joint resolution extending the duration of copyright protection in certain cases.

NOTICE OF CANCELLATION OF HEARINGS ON S. 3305 AND S. 3306

Mr. TYDINGS. Mr. President, as chairman of the Senate Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce the cancellation of hearings for the consideration of S. 3305 and S. 3306. These bills would improve the judicial machinery by providing for Federal jurisdiction and a body of uniform Federal law for cases arising out of certain operations of aircraft.

The hearing, scheduled for July 18, 1968, is canceled until further notice.

CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1358, 1384, 1385, 1390, 1391, and 1392.

The PRESIDING OFFICER (Mr. MCGEE in the chair). Without objection, it is so ordered.

EXCHANGE OF LANDS

The Senate proceeded to consider the bill (S. 3578) to direct the Secretary of Agriculture to release, on behalf of the United States, a condition in a deed conveying certain land to the South Carolina State Commission of Forestry so as to permit such Commission, subject to a certain condition, to exchange such lands, which had been reported from the Committee on Agriculture and Forestry, with amendments, on page 2, line 13, after "SEC. 2." strike out:

The Secretary of Agriculture shall release the condition referred to in the first section of this Act only with respect to the lands comprising the tract of land described in such section (containing approximately seventy-two acres) and only after the Secretary of Agriculture and the South Carolina Commission of Forestry have entered into an agreement in which such commission, in consideration of the release of such condition, agrees that the lands with respect to which such condition is released shall be exchanged for lands of comparable value and

that the lands so acquired by exchange shall be subject to the condition, with respect to the use of such lands for public purposes, contained in the deed referred to in the first section of this Act.

And insert:

The Secretary shall release the condition referred to in the first section of this Act only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the South Carolina Commission of Forestry in which such State agency, in consideration of the release of such conditions as to such lands, agrees that the lands with respect to which such condition is released shall be exchanged for lands of approximately comparable value and that the lands so acquired by exchange shall be used for public purposes.

On page 3, after line 10, insert a new section, as follows:

SEC. 3. Upon application all the undivided mineral interests of the United States in any parcel or tract of land released pursuant to this Act from the condition as to such lands shall be conveyed to the South Carolina Commission of Forestry for the use and benefit of the Commission by the Secretary of the Interior. In areas where the Secretary of the Interior determines that there is no active mineral development or leasing, and that the lands have no mineral value, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas, the mineral interests shall be sold at the fair market value thereof as determined by the Secretary of the Interior after taking into consideration such appraisals as he deems necessary or appropriate.

After line 24, insert a new section, as follows:

SEC. 4. Each application made under the provisions of section 3 of this Act shall be accompanied by a nonrefundable deposit to be applied to the administrative costs as fixed by the Secretary of the Interior. If the conveyance is made, the applicant shall pay to the Secretary of the Interior the full administrative costs, less the deposit. If a conveyance is not made pursuant to an application filed under this Act, the deposit shall constitute full satisfaction of such administrative costs notwithstanding that the administrative costs exceed the deposit.

And on page 4, after line 9, insert a new section, as follows:

SEC. 5. The term "administrative costs" as used in this Act includes, in addition to other items, all costs which the Secretary of the Interior determines are included in a determination of (1) the mineral character of the land in question, and (2) the fair market value of the mineral interest.

So as to make the bill read:

S. 3578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of subsection (c) of section 32 of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release, on behalf of the United States, with respect to the following-described lands, the condition contained in the deed dated June 28, 1955, between the United States of America and the South Carolina State Commission of Forestry, conveying, pursuant to such subsection, certain lands, of which such described lands are a part, to such Commission, which requires that the lands conveyed be used for public purposes:

A tract consisting of approximately seventy-two acres, being a portion of the five-hundred-and-ten-acre tract conveyed by such deed dated June 28, 1955, which is bounded on the south by the State Forestry Commission, on the east by McCray's Mill Club and E. T. Gulledge, on the north by the State Highway Numbered 763, and on the west by an unpaved county public road known as the Brunt Gin Road.

SEC. 20. The Secretary shall release the condition referred to in the first section of this Act only with respect to lands covered by and described in an agreement or agreements entered into between the Secretary and the South Carolina Commission of Forestry in which such State agency, in consideration of the release of such conditions as to such lands, agrees that the lands with respect to which such condition is released shall be exchanged for lands of approximately comparable value and that the lands so acquired by exchange shall be used for public purposes.

SEC. 3. Upon application all the undivided mineral interests of the United States in any parcel or tract of land released pursuant to this Act from the condition as to such lands shall be conveyed to the South Carolina Commission by the Secretary of the Interior. In areas where the Secretary of the Interior determines that there is no active mineral development or leasing, and that the lands have no mineral value, the mineral interests covered by a single application shall be sold for a consideration of $1. In other areas, the mineral interests shall be sold at the fair market value thereof as determined by the Secretary of the Interior after taking into consideration such appraisals as he deems necessary or appropriate.

SEC. 4. Each application made under the provisions of section 3 of this Act shall be accompanied by a nonrefundable deposit to be applied to the administrative costs as fixed by the Secretary of the Interior. If the conveyance is made, the applicant shall pay to the Secretary of the Interior the full administrative costs, less the deposit. If a conveyance is not made pursuant to an application filed under this Act, the deposit shall constitute full satisfaction of such administrative costs notwithstanding that the administrative costs exceed the deposit.

SEC. 5. The term "administrative costs" as used in this Act includes, in addition to other items, all costs which the Secretary of the Interior determines are included in a determination of (1) the mineral character of the land in question, and (2) the fair market value of the mineral interest.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1380), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

This bill, with the committee amendment, would—

(1) Direct the Secretary of Agriculture to release, with respect to 72 acres, a condition in a conveyance to the South Carolina State Commission of Forestry requiring the lands to be used for public purposes. Such release would be conditioned upon the commission's agreement (A) to exchange the 72-acre tract for lands of approximately comparable value, and (B) that the lands acquired by such exchange shall be used for public purposes.

(2) Require the Secretary of the Interior upon application to convey the mineral interests of the United States in such tract to the commission at fair market value (or $1 per application if of only nominal value).

The bill is generally similar to Public Law 90-307, which provides for a similar release to the University of Maine.

DONALD D. LAMBERT

The bill (H.R. 2695) for the relief of Donald D. Lambert was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1406), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Donald D. Lambert of West Yarmouth, Mass., of liability in the amount of $2,172.62, representing an overpayment of retired pay after discharge from the temporary retired list of the U.S. Marine Corps in the period from November 30, 1963, to December 31, 1965, due to the fact that the appropriate disbursing officer was not notified of his discharge. The bill would authorize the refund of any amounts withheld or repaid by reason of the liability.

STATEMENT

The facts of the case are set forth in House Report No. 1433, which are as follows:

The Department of the Navy in its report to the committee on the bill indicates that it has no objection to the bill.

The individual named in the bill, Donald D. Lambert of West Yarmouth, Mass., was formerly a first lieutenant in the U.S. Marine Corps. He was transferred to the temporary disability retired list on January 1, 1959, and became entitled to retired pay commencing that date. As a result of a periodic physical examination, it was determined that First Lieutenant Lambert's disability had decreased to less than 30 percent. Accordingly, he was discharged from the naval service with entitlement to disability severance pay, effective November 30, 1963. First Lieutenant Lambert's discharge terminated his right to monthly retired pay and created an entitlement to severance pay, payable in a lump sum. However, for an undetermined reason, the orders effecting the discharge were not received by the cognizant disbursing officer. As a result, severance pay was not paid and monthly payments of retired pay were erroneously continued through December 31, 1965. The erroneous payments of retired pay totaled $5,022.62. First Lieutenant Lambert was entitled to severance pay in the amount of $2,850 which he did not receive. He was overpaid the net sum of $2,172.62.

The applicable statute governing payment of disability severance pay does not explicitly specify that payment will be made in a lump sum. Further, a determination of the amount of severance pay requires the application of relatively complex procedures with which the average service member cannot be expected to be familiar. As was observed in the Navy Department report, First Lieutenant Lambert might reasonably have assumed that the payment he continued to receive after his discharge represented installment payments of the severance pay to which he was entitled.

In its report, the Navy Department stated that former Lieutenant Lambert was entitled to a disability severance payment in the amount of $2,850 and this amount was deducted from the amount he was overpaid in the form of temporary disability retired pay. The amount stated in the bill is the balance of the money he received, that is, $2,172.62. The bill would merely relieve him of the liability of repaying this amount. The committee has determined that Mr. Lambert is equitably entitled to relief of the liability of repaying that amount. The evidence submitted to the committee in connection with the matter establishes the fact that Mr. Lambert is married and supports a wife and

four children, the youngest of whom is about 3 years of age. Correspondence filed with the committee indicates that in 1966, he was still obligated to complete payments on his obligation to a hospital for an eye operation and that at that time he was teaching high school and supplemented his income with nightwork on the police force of his locality. This is a case in which a young man was separated from the service because of a disability and then secured employment as a schoolteacher in a small town in order to support his family. It is clear that this obligation has imposed a hardship upon him and under the circumstances the committee feels that relief is justified. The committee has determined that the amendment suggested by the Navy does not appear to be necessary since it refers to a claim which has not been asserted.

The committee, after a review of all of the foregoing, concurs in the action of the House of Representatives and recommends that the bill, H.R. 2695, be considered favorably.

JAMES M. YATES

The bill (H.R. 3681) for the relief of James M. Yates was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1407), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve James M. Yates, of St. Louis, Mo., a member of the U.S. Army, of liability of $238.50 representing compensation paid him in the commutation of subsistence during his training under the Reserve Officers' Training Corps program. The bill would authorize the refund of any amounts withheld or repaid by reason of the liability.

STATEMENT

The facts of the case are set forth in the House report on this legislation and are as follows:

The Department of the Army in its report, to the committee on the bill stated that it was not opposed to legislative relief. The report of the Comptroller General, while questioning relief on the grounds of general policy, indicated that the determination as to whether relief should be extended in this particular case was a matter for determination by Congress.

James M. Yates graduated from Washington University, St. Louis, Mo., with a bachelor of science degree in June of 1961. As is indicated in the Army report, at that time he had completed military science 202 but had not completed military science 201. On September 18, 1961, he entered the university school of business administration for graduate work and enrolled in military science 201 and military science 301 concurrently. Normally, military science 201 and 202 are completed before enrolling in military science 301 but the "compressed course" is authorized in certain circumstances. He completed military science 201 and 301 on January 13, 1962. On February 12, 1962, he signed an advanced Reserve Officers' Training Corps course contract with an effective date of September 18, 1961. In March 1962, he was paid $147.60 for 164 days' subsistence for the period of September 18, 1961, through February 28, 1962. During the second semester of graduate study, Mr. Yates completed military science 302 and was paid $90.90 for 117 days' subsistence for the period ending June 10, 1962. In his second year of graduate school, Mr. Yates completed military science 401 and 402 and upon graduation was appointed a second lieutenant, Signal Corps.

The problem in this case is that despite the fact that Mr. Yates completed the Reserve officers' course which obviously was the result sought to be encouraged by provision for subsistence payments, paragraph 31(b) of Army Regulation 145–350, in effect at the time in question, provides that the advanced Reserve Officers' Training Corps course contract may not be signed and commutation of subsistence is not authorized for compressed course students until completion of MS III (301 and 302). The Army report concluded that Lieutenant Yates signed an "unauthorized contract" because of the technical requirements of the regulation and for this reason was held to have been paid $238.50 for commutation of subsistence between September 18, 1961, and June 10, 1962, erroneously.

Lieutenant Yates was notified of the erroneous payment and collection action by the Finance Center, U.S. Army, began in November 1964. By April 1965, the total indebtedness of $238.50 was collected from Lieutenant Yates' military pay. In August 1965 he was released from active duty with the Army.

This committee has concluded that this most technical interpretation has resulted in an unfair requirement that Mr. Yates repay this amount. It appears that had he taken the courses in the normal order, he would clearly have been entitled to the subsistence. He earned his Reserve commission and served the full period of his required active duty. It seems unfair for the Government at this stage to require repayment. In this connection, the Army stated its reasons for not opposing the bill as follows:

"Department of the Army records indicate that the overpayment was caused by administrative error of Department of the Army personnel and that the payments were received by Lieutenant Yates in good faith. He advises that he was married on July 2, 1963, and his first child was born in May 1964. While in the Army, he supported his family on his Army pay. As a result of the collection of the overpayment he borrowed money from his father to supplement his Army income. In view of the foregoing, the Department is not opposed to the bill."

The committee, after a review of all of the foregoing, concurs in the action of the House of Representatives and recommends that the bill, H.R. 3681, be considered favorably.

HENRY GIBSON

The bill (H.R. 8087) for the relief of Henry Gibson was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1412), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Henry Gibson, a retired Army enlisted man, of liability in the amount of $1,993.33 representing overpayments of basic pay as a member of the Army for the period from July 1, 1949, to June 30, 1962, as the result of an erroneous certification of his prior service by the Army Finance Center. This bill would authorize the refund of any amounts withheld or repaid by reason of the liability.

STATEMENT

The committee on the Judiciary of the House of Representatives in its favorable report on the bill sets forth the facts in the case and its recommendations as follows:

"The Department of the Army in its report to the committee on the bill indicates that it has no objection to the bill with the amendments recommended by the committee. The report of the Comptroller General recommends the same amendments and questions enactment, while noting that the question of relief in this instance is a matter of policy for the Congress to decide."

In its report to the committee, the Department of the Army outlined the facts which are relevant to the erroneous action which caused the overpayment in Mr. Gibson's case. On July 1, 1962, Mr. Henry Gibson, then a specialist, fifth class, in the Army, was retired with retired pay based on 24 years of service. On March 8, 1963, Mr. Gibson was paid $644.16 for erroneous dedeductions for separate rations in July and August 1958, and an adjustment of pay from January 1, 1959, through June 30, 1962, computed from records on file at the Army Finance Center. On September 10, 1964, he was paid $137.76 for an adjustment of pay for the years 1951, 1953, and 1957, based on a restatement of service furnished the Army Finance Center by The Adjutant General. This restatement of service erroneously credits him with 2 additional years of service. Reverification of his service, in October of 1964, revealed that he first enlisted in the Army on November 27, 1929, instead of November 29, 1927, as shown on the previous restatement of service. On February 3, 1965, a recomputation of his account, based on this statement of service, revealed that he received overpayments for the period from October 1, 1949, through June 30, 1962 (including the March 8, 1963, and September 10, 1964, payments), for a total indebtedness to the United States of $1,978.33. In 1965, a General Accounting Office audit of his account disclosed an additional overpayment of $5 per month for the period July 1, 1949, through September 30, 1949, increasing his total indebtedness to $1,993.33. As originally introduced, the bill stated that the overpayments occurred in the period between March 8, 1963, and September 10, 1964; however, Army records disclose that the overpayments were based on the years of service performed from October 1, 1949, through June 30, 1962. This was prior to his retirement, and his retired pay was never adjusted on the basis of the erroneous certification. Collection action on the debt began on December 1, 1965.

In indicating that it has no objection to the bill, the Department of the Army stated that its investigation had disclosed nothing that would indicate that Mr. Gibson was aware that the Army had made an error concerning his period of service for pay purposes. The Army secured information concerning his financial circumstances and concluded that repayment of the debt imposes a severe hardship on Mr. Gibson and his family. These are the considerations that the committee feels justify legislative relief in this instance. In this connection, the Army report stated as follows:

"The Department of the Army does not oppose a bill of this nature when a former serviceman received in good faith erroneous payments made through administrative error and repayment would impose a hardship on the individual. The error in payment in this case resulted from administrative determinations made regarding years of service for basic pay purposes. There is nothing in the record to indicate that Mr. Gibson was specifically informed or knew that he was receiving pay based on erroneous service data. The error was not discovered until more than 2 years after his retirement. Information furnished to this Department indicates that repayment of this debt imposes a severe hardship on Mr. Gibson and his family. His civilian salary and retirement pay are fully committed for current bills and obligations. Accordingly, the Department of the Army considers that it

would be contrary to equity and good conscience to require Mr. Gibson to repay the money paid to him through administrative error and received by him in good faith and has no objection to the bill. It is suggested that the bill be amended to relieve him from liability in the amount of $1,993.33 and to show that the overpayments occurred during the period from July 1, 1949, through June 30, 1962."

"In view of the circumstances outlined in this report, and in particular, those referred to by the Department of the Army in the foregoing quotation, this committee recommends that the amended bill be considered favorably."

The Committee on the Judiciary believes that the bill is meritorious and recommends it favorably.

MAJ. HOLLIS O. HALL

The bill (H.R. 8809) for the relief of Maj. Hollis O. Hall was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1413), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Maj. Hollis O. Hall, U.S. Air Force, of liability to the United States in the amount of $2,524.70 for overpayments of active duty pay in the period from June 25, 1951, through August 16, 1962, as a result of administrative error in crediting midshipman service in fixing his pay date. The bill provides for the refund of any amounts repaid or withheld by reason of the liability.

STATEMENT

The Committee on the Judiciary of the House of Representatives in its favorable report on the bill sets forth the facts in the case and its recommendations as follows:

The Department of the Air Force in its report to the committee indicates that it would have no objection to a bill amended as recommended by the committee. The Comptroller General in his report to the committee indicated that the determination of the question of legislative relief in this instance is a matter for determination by the Congress and further noted that similar relief has been granted by public and private law in previous Congresses.

Major Hall enlisted in the U.S. Navy November 16, 1943. He was discharged from this enlistment August 5, 1947, to accept an appointment as a midshipman in the U.S. Naval Reserve. He served as a midshipman until his discharge April 14, 1949. His notice of separation from the Navy, dated April 14, 1949, showed he had 5 years, 4 months, and 29 days of service for pay purposes. This included the 1 year, 8 months, and 9 days he was a midshipman in the Naval Reserve. Major Hall was appointed a second lieutenant in the Air Force Reserve June 1, 1951, and ordered to extended active duty June 23, 1951. He has been on continuous active duty since that date. He was appointed in the Regular Air Force February 11, 1954. His pay date was listed in the Air Force Register as January 2, 1946, beginning in January 1955. This gave him credit for pay purposes for both periods of service in the Navy.

In 1962, Major Hall's records were reviewed. The Air Force determined he was not entitled to credit for pay purposes for the period he was a midshipman in the Naval Reserve. This service is not included in the list of service creditable for basic pay of officers as prescribed in 37 U.S.C. 205 (see 30 Comp. Gen. 31). Major Hall did not agree with this determination. Based on his requests, his Navy and Air Force records were subsequently reviewed on three separate occasions. Since the question had been settled by the Comptroller General (see 43 Comp. Gen. 176, 181 and 43 id. 577), no basis existed for changing the 1962 Air Force determination. The Air Force Register, published January 1, 1963, listed September 11, 1947, as his proper pay date.

The Air Force Accounting and Finance Center made a complete audit of Major Hall's pay account. This audit showed that from the date he was commissioned in the Air Force, Major Hall had erroneously been credited for pay purposes with the period (August 6, 1947, through April 14, 1949) he was a midshipman in the U.S. Naval Reserve. As a result, he received overpayments of basic pay and flight pay totaling $3,175.36 from June 25, 1951, through September 10, 1965. However, on August 16, 1962, the date on which Major Hall was aware that the period he was a midshipman, was not creditable for pay, the indebtedness amounted to $2,524.70. Overpayments continued until September 10, 1965, based on his contention, in appeals, that the service was creditable for pay. Collection of the overpayments was initiated from his active duty pay effective in March 1966 at the rate of $30 a month. His monthly pay and allowances total $1,117.68. He is married and has three children.

"The Air Force report stated that the Department of the Air Force does not have authority to waive Major Hall's indebtedness. The overpayments were the result of administrative error and there is no evidence of lack of good faith on his part or on the part of administrative officials.

In indicating that it did not object to relief, the Air Force stated:

"Based upon a review of the circumstances of the case, the Department of the Air Force interposes no objection to the enactment of the bill. However, we recommend that relief, if granted, be confined to the overpayments made between June 25, 1951, and August 16, 1962, inclusive, in the amount of $2,524.70. Since Major Hall initiated appeal action on August 17, 1962, he was aware as of that date that he was receiving overpayments to which he was not entitled. Thereafter, overpayments totaling $650.66 continued until September 10, 1965. In our view, Major Hall should be required to repay this portion of the indebtedness which he received after he had knowledge of the error."

The committee agrees that this case is the proper subject for legislative relief in the amount recommended by the Air Force. It has been concluded that this officer is equitably entitled to relief up until he had notice of the question concerning his entitlement to credit for his midshipman service. It is, therefore, recommended that the bill be amended to provide for a release of liability in the amount of $2,524.70, which is the overpayment made between June 25, 1951, and August 16, 1962. It is recommended that the amended bill be considered favorably.

The Committee on the Judiciary believes that the bill is meritorious and recommends it favorably.

MRS. ELISE C. GILL

The bill (H.R. 14323) for the relief of Mrs. Elise C. Gill was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1414), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay to Mrs. Elise C. Gill of Linden, Calif., the sum of $75 in full settlement of her claim against the United States for the proceeds of a $75 U.S. postal money order held by her, numbered 25580, dated September 2, 1944, and originally purchased by her son, the late Marvin A. Gill.

STATEMENT

The facts and recommendations are set forth in the House report on this legislation and are as follows:

On September 2, 1945, while serving overseas in the Pacific theater of operations as a corporal in the U.S. Army, he purchased a $75 money order. This money order, Serial No. 25580, bears the imprint "San Francisco, U.S. Army Postal Service, APO 719 Br., Calif." The money order was made payable to "G. D. Gill." Corporal Gill was the radio operator on an Army aircraft which was lost on a flight over the Philippine Islands. In a letter to the sponsor of the legislation, his mother, Mrs. Elise C. Gill, stated that on this flight on the 12th of March 1945, the plane was lost and Corporal Gill and five others on the plane were never found. Mrs. Gill's husband, G. D. Gill, died 8 months later.

Years later, Mrs. Gill felt that she wanted to read her son's wartime letters. At that time, in reading one letter, she saw something green in the back of a letter, and found it to be the money order which is referred to in this bill. Apparently, when the letter was originally received, the soldier's parents failed to find it. Mrs. Gill further explained that her son was interested in saving money to purchase cattle upon his return home.

The letter from the Post Office Department commenting upon the bill indicates that the Department opposes its enactment. This position is based upon the fact that current law bars the payment of money orders after 20 years from the last day of the month of original issue. In this case Mrs. Gill did not find the money order among the letters from her son until the period for payment had elapsed. In view of the fact that Mrs. Gill is seeking payment of a money order made payable to her deceased husband, the committee inquired as to whether there might be other claimants. The committee has been advised by the sponsor of the bill that G. D. Gill left no will and was survived by his wife, Elise C. Gill, and two sons, George M. Gill and Milton C. Gill. A statement by George M. Gill and Milton C. Gill stated that they agree to payment to their mother as provided in this bill has been filed with the committee.

The original of the money order which the Government has refused to honor has been furnished to the committee. This, in the opinion of the committee, satisfies the objection of the Post Office Department that evidence be furnished that the money has not, in fact, been paid. The situation, therefore, is one in which the Government has $75 which, in the absence of this bill, will never be paid. It is the opinion of the subcommittee that Mrs. Gill is equitably entitled to the money and it is therefore recommended that the bill be considered favorably.

The committee, after a review of all of the foregoing, concurs in the action of the House of Representatives and recommended that the bill, H.R. 14323, be considered favorably.

ORDER OF BUSINESS

Mr. MORSE. If the Senator from Montana is through with the calendar,

are we ready for the transaction of routine morning business?

Mr. MANSFIELD. Yes.

Mr. MORSE. I should like to proceed with some morning business. I have several items. If any other Senator would like to proceed first, it is all right with me.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

THERE IS ONLY ONE ISSUE IN THE SUPREME COURT NOMINATIONS

Mr. MORSE. Mr. President, I have a copy of a telegram which was sent to the chairman of the Senate Judiciary Committee. The telegram discusses President Johnson's nominations of Justice Abe Fortas as Chief Justice of the United States and Judge Homer Thornberry as Associate Justice of the Supreme Court. The telegram is signed by 480 deans and professors at 68 of the finest law schools in the Nation, and has been released to the public by the signers.

As former dean of law at the University of Oregon, I know many of the deans and professors who signed this telegram. I completely agree with their legal observations.

Because of the controversy and great public interest surrounding the two Supreme Court nominations, I should like to read the contents of this statement from the cream of America's academic legal community:

As professors of law, we wish to express our grave concern over the opinion expressed in some quarters that, in view of the fact that President Johnson is not a candidate for reelection, his recent nominations of Justice Abe Fortas as Chief Justice of the United States and Judge Homer Thornberry as associate justice of the Supreme Court should not be entertained by the Senate.

We find no warrant in constitutional law for the proposition that the concurrent authority and obligation of the President and Senate with respect to the appointment of high federal officials are in any degree, attenuated by a presidential decision not to seek a further term. Indeed, in our judgment the proposition contended for would subvert the basic constitutional plan, for it would substantially erode authority explicitly vested by the constitution in the President and in the Senate. The constitution contemplates, and the people in electing a president and Senators expect, that the highest executive and legislative officials of the land will exercise their full authority to govern throughout their terms of office.

Acquiescence in the view that a President whose term is expiring should under no circumstances exercise his power to nominate would have deprived our Nation of the incomparable judicial service of John Marshall. And this example precisely demonstrates that impairment of the appointive power would be most fraught with hazard when the post to be filled is a judicial one. To lay it down as a general rule that in his last year in office a President should leave judicial posts vacant so that they can be filled by the next administration would frequently disrupt the orderly conduct of judicial business. In addition such a general rule would have even more serious repercussions. It would imply acceptance of the premise that judges are accountable to the President who nominates and the Senators who advise and consent. Our entire constitutional structure is reared upon exactly the opposite premise. A judicial nominee is to be judged by the Senate on his merits. If confirmed and commissioned, he sits as a judge during good behavior, and he owes official allegiance not to other Government officers but to the Constitution and laws of the United States.

Moreover, we submit that any use of the technique of filibuster to frustrate the appointive power would be a further, and equally unworthy, assault upon the integrity of the Presidency, the judiciary, and the Senate. We hope and trust that the Senate, prompted by the Judiciary committee, will forthwith address itself to the only issues properly before it—the fitness of these nominees for the posts in question.

We respectfully request that this telegram be made a part of the Judiciary Committee's record with respect to the nominations of Justice Fortas and Judge Thornberry.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the list of names of the law school deans and professors who signed the telegram.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Albany Law School, Union University: Samuel M. Hesson, Dean; William Samore.

University of Arizona College of Law: Charles E. Ares, Dean; Robert Emmet Clark; John J. Irwin, Jr.; Winton D. Woods, Jr.

University of Arkansas School of Law: Ralph C. Barnhart, Dean; Albert M. Witte; Robert Ross Wright, III.

Boston College Law School: Peter Donovan; Robert F. Drinan, Dean; Mary Glendon; James L. Houghterling, Jr.; Richard G. Huber; Sanford Katz; Francis J. Larkin; Joseph F. McCarthy; Francis J. Nicholson, S.J.; Mario E. Occhialino; John D. O'Reilly, Jr.; Emil Slizewski; James W. Smith; Richard S. Sullivan; William P. Willier.

University of California (Berkeley): Babette B. Barton; Richard M. Buxbaum; Jesse H. Choper; Edward C. Halbach, Jr., Dean; J. Michael Heyman; Richard W. Jennings; Sanford H. Kadish; Adrian A. Kragen; John K. McNulty; Sho Sato; David E. Seller; Arthur H. Sherry; Preble Stolz; Lawrence M. Stone; Lawrence A. Sullivan; Jan Vetter.

University of California (Los Angeles): Norman Abrams; Michael A. Asimow; Harold W. Horowitz; Leon Letwin; Richard C. Maxwell, Dean; David Mellinkoff; Herbert Morris; Paul O. Proehl; Arthur I. Rosett; Richard A. Wasserstrom.

Salmon P. Chase: Jack W. Grosse; Nicholas C. Revelos; Eugene W. Youngs, Dean.

University of Chicago: David P. Currie; Kenneth Culp Davis; Bernard D. Meltzer; Norval Morris; Phil C. Neal, Dean; Dallin H. Oaks.

University of Cincinnati: Kenneth L. Aplin; Roscoe L. Barrow; Robert Nevin Cook; Stanley E. Harper, Jr.; Wilbur R. Lester; John J. Murphy; Victor E. Schwartz; Claude R. Sowle, Dean.

Cleveland-Marshall Law School: Hyman Cohen; Howard L. Oleck, Dean; Kevin Sheard.

Columbia University: Walter Gellhorn; William C. Warren, Dean.

University of Connecticut: Thomas L. Archibald; Joseph A. LaPlante; Philip Shuchman; Robert E. Walsh; Donald T. Weckstein.

Cornell Law School: Harry Bitner; William Tucker, Dean; Harrop A. Freeman; Kurt L. Hanslowe; John W. MacDonald; Walter E. Oberer.

DePaul University: Philip Romiti, Dean.

Drake University: M. Gene Blackburn; George Gordin, Jr.; Edward R. Hayes; Kamilla Mazanec; Denton R. Moore; Craig T. Sawyer; John D. Scarlett, Dean.

Duke University: George C. Christie; Ernest A. E. Gellhorn; Clark C. Havighurst; John D. Johnston, Jr.; F. Hodge O'Neal, Dean; Melvin Gerald Shimm; John W. Strong.

University of Florida: K. L. Black; Charles Dent Bostick; Dexter Delony; John M. Flackett; James J. Freeland; Mandell Glicksberg; Elmer Leroy Hunt; Ernest M. Jones; Leslie Harold Levinson; Frank E. Maloney, Dean; Leonard Stewart Powers; Walter Probert; Joel Rabinovitz; Richard B. Stephens; Duane D. Wall; Wayne Walker.

Georgetown University: Addison M. Bowman; Edwin J. Bradley; Paul R. Dean, Dean; Raymond E. Gallagher; Sidney B. Jacoby; Edwin P. McManus; Robert S. Schoshinski; Jonathan Sobeloff.

University of Georgia: James Ralph Beaird; Lindsey Cowen, Dean; James W. Curtis; D. Meade Field; David C. Landgraf; Robert N. Leavell; John F. T. Murray; John Daniel Reaves; John Barton Rees; Charles L. Saunders, Jr.; R. Perry Sentell, Jr.; Hunter E. Taylor, Jr.

Harvard University: Derek C. Bok, Dean.

University of Illinois: Edward J. Kionka; Wayne R. Lafave; Prentice H. Marshall; John Harrison McCord; Herbert Semmel; Victor J. Stone; J. Nelson Young.

Indiana University (Bloomington): Edwin H. Greenebaum; William Burnett Harvey, Dean; Dan Hopson; Val Nolan, Jr.; William W. Oliver; F. Thomas Schornhorst; Dan Tarlock; Philip C. Thorpe.

University of Iowa: Eric E. Bergsten; Arthur E. Bonfield; William G. Buss; Ronald L. Carlson; Richard F. Dole, Jr.; Dorsey D. Ellis, Jr.; Samuel M. Fahr; Gary S. Goodpaster; N. William Hines; James E. Meeks; Paul M. Neuhauser; David H. Vernon, Dean; Allan D. Vestal; Alan Widiss.

University of Kansas: Harvey Berenson; Lawrence E. Blades; Robert C. Casad; Finn Henriksen; William Arthur Kelly; Walker D. Miller; Benjamin G. Morris; Charles H. Oldfather; Arthur H. Travers, Jr.; Lawrence R. Velvel; Paul E. Wilson.

Louisiana State University: Melvin G. Dakin; Milton M. Harrison; Paul M. Hebert, Dean; Robert A. Pascal; A. N. Yiannopoulos.

University of Louisville: William E. Biggs; James R. Merritt, Dean; Ralph S. Petrilli; A. C. Russell; W. Scott Thomson; Marlin M. Volz.

Loyola University School of Law (Chicago): William L. Lamey, Dean; Robert G. Spector.

Mercer University: Francisco L. Figueroa; Philip Mullock; James C. Quarles, Dean; James C. Rehberg; Willis B. Sparks, III.

University of Michigan: Layman E. Allen; William M. Bishop, Jr.; Olin L. Browder, Jr.; Luke K. Cooperrider; Roger A. Cunningham; Charles Donahue, Jr.; Carl S. Hawkins; Jerold H. Israel; John H. Jackson; Joseph R. Julin; Douglas A. Kahn; Yale Kamisaw; Paul G. Kauper; Thomas E. Kauper; Frank Robert Kennedy; Robert L. Knauss; William J. Pierce; Terrance Sandalow; Joseph L. Sax; Stanley Siegel; L. Hart Wright.

University of Mississippi: John S. Bradley, Jr.; Gerard Magavero; Luther L. McDougal III; Joshua M. Morse III, Dean; William W. Van Alstyne; Parham H. Williams, Jr.

University of New Mexico: Willis H. Ellis; Frederick M. Hart; Jerome Hoffman; Hugh B. Muir; Albert E. Utton; Robert Willis Walker; Henry Weihofen.

State University of New York (Buffalo): Thomas Buergenthal.

New York University: Robert B. McKay, Dean.

University of North Carolina: Robert G. Byrd; Dan B. Dobbs; Martin B. Louis; Robert A. Melott; Mary W. Oliver; James Dickson Phillips, Dean; Melvin C. Poland; John Winfield Scott, Jr.; Richard M. Smith; Frank R. Strong; Dale A. Whitman.

Northwestern University: Thomas Bovaldi; William C. Chamberlin; Robert Childres; John P. Heinz; Vance N. Kirby; Brunson McChesney; Alexander McKam; Nathaniel L. Nathanson; John C. O'Byrne; James A. Rahl; William Roalfe; Kurt Schwerin; Francis O. Spalding.

Notre Dame Law School: Joseph O'Meara, Emeritus, Dean; Robert E. Rodes, Jr.

Ohio Northern University: Daniel S. Guy; Eugene N. Hansen, Dean; David Jackson Patterson, George D. Vaubel.

Ohio State University: James W. Carpenter, Richard E. Day, Howard Fink, Lawrence Herman, Leo J. Rasking, Alan Schwarz, Peter Simmons, Roland Stanger.

University of Oregon: Eugene F. Scoles.

University of Pennsylvania: Jefferson B. Fordham, Dean.

Rutgers. The State University (Camden): Russell W. Fairbanks, Dean.

Rutgers. The State University (Newark): Willard Heckel, Dean.

St. Louis University: Charles B. Blackmar; Richard Jefferson Childress; Vincent C. Immel, Dean; Donald B. King; Howard S. Levie; J. Norman McDonough; Sanford E. Sarasohn; Dennis J. Tuchler; Harvey L. Zuckman.

University of Santa Clara: Graham Douthwaite; Dale F. Fuller; Leo A. Huard, Dean; George A. Strong.

University of Southern California (Los Angeles): George Lefcoe; Dorothy W. Nelson, Dean.

Southern Methodist University: Charles O'Neill Galvin, Dean.

South Texas College of Law: Garland R. Walker, Dean.

Stanford University: Bayless A. Manning, Dean; Joseph T. Sneed.

University of Texas: Vincent A. Blasi; Edward R. Cohen; Fred Cohen; Carl H. Fulda; T. J. Gibson; Stanley M. Johanson; W. Page Keeton, Dean; James L. Kelley; J. Leon Lebowitz; Robert E. Mathews; Michael P. Rosenthal; Millard H. Ruud; George Schatzki; Marshall S. Shapo; Ernest E. Smith; James M. Treece; Russell J. Weintraub; Marion Kenneth Woodward; Harry K. Wright.

Texas Southern University: Earl L. Carl; Eugene M. Harrington; Roberson L. King; Kenneth S. Tollett, Dean.

University of Toledo: Samuel A. Bleicher; Charles W. Fornoff; Karl Krastin, Dean; Vincent M. Nathan; Gerald F. Petruccelli; John W. Stoepler.

University of Utah: Jerry R. Andersen; Ronald N. Boyce; Edwin Brown Firmage; John J. Flynn; Lionel H. Frankel; George G. Grossman; Harry Groves; Robert L. Schmid; I. Daniel Stewart; Robert W. Swenson; Samuel D. Thurman, Dean; Richard D. Young.

Vanderbilt University: Elliott E. Cheatham; Paul J. Hartman; L. Ray Patterson; Paul H. Sanders; T. A. Smedley; John W. Wade, Dean.

Villanova University: Gerald Abraham; George Daniel Bruch; J. Willard O'Brien; Harold Gill Reuschlein, Dean.

University of Virginia: Hardy C. Dillard, Dean; Ernest L. Folk III; Marion K. Kellogg; Peter W. Low; Peter C. Manson; J. C. McCold II; Carl McFarland; Emerson G. Spies; Mason Willrich; Charles K. Woltz; Calvin Woodard.

University of Washington: William R. Andersen; James E. Beaver; William Burke; Charles E. Corker; Harry M. Cross; Robert L. Fletcher; Roland L. Hjorth; Robert S. Hunt; John Huston; John M. Junker; Richard O. Kummert; Luvern V. Rieke.

Washington University (St. Louis): Gary I. Boren; Gray L. Dorsey; William C. Jones; Arthur Allen Leff; Warren Lehman; Hiram H. Lesar, Dean; Frank William Miller; R. Dale Swihart.

Wayne State University: Charles W. Joiner, Dean.

Case Western Reserve University: Ronald J. Coffey; Maurice S. Culp; Lewis R. Katz; Earl M. Leiken; Richard Lewis Robbins; Hugh A. Ross; Oliver Schroeder, Jr.

College of William and Mary: Joseph Curtis, Dean; Arthur Warren Phelps; William F. Swindler.

University of Wisconsin: Gordon Brewster Baldwin; Abner Brodie; Alexander Brooks; John E. Conway; George Currie; August G. Eckhardt; Nathan P. Feinsinger; G. W. Foster; Orrin L. Helstad; James Willard Hurst; Wilbur G. Katz; Edward L. Kimball; Spencer Kimball, Dean; Stewart Macaulay; Samuel Mermin; Walter B. Raushenbush; Frank J. Remington; Robert H. Skilton; John C. Stedman; George H. Young; Zigurds L. Zile.

Yale Law School: Joseph W. Bishop, Jr.; Boris I. Bittker; Ralph S. Brown, Jr.; Guido Calabresi; Elias Clark; Thomas I. Emerson; Abraham S. Goldstein; Joseph Goldstein; Leon Lipson; Myres Smith McDougal; Louis H. Pollak, Dean; Henry V. Poor.

LATE ARRIVALS

Louisiana State University: George W. Hardy, III; Francis C. Sullivan.

Albany Law School: Bernard Evans Harvith.

New York University: Edward J. Bender; Ralph Frederic Bischoff; Miguel De Capriles; James S. Eustice; M. Carr Ferguson, Jr.; George Frampton; James Gambrell; Albert H. Garretson; Hyman Gross; Joseph W. Hawley; George D. Hornstein; Graham Hughes; Howard I. Kalodner; Lawrence P. King; Charles Lincoln Knapp; Homer Kripke; Andreas F. Lowenfeld; Robert Leflar; Guy B. Maxfield; Robert B. McKay; Elmer Mayse Million; John L. Peschel; Robert Pitofsky; Norman Redlich; Michael A. Schwind; John Yeatman Taggart; Gerald L. Wallace; Peter A. Winograd; Irving Younger; Judith Younger.

Boston University: Dennis S. Aronowitz; Hugh J. Crossland; Neil S. Hecht; Robert B. Kent; Daniel G. MacLeod; Banks McDowell; Henry P. Monaghan; William Schwartz; Paul M. Siskind, Dean; Austin T. Stickells; Paul A. Wallace, Jr.

University of Illinois: Rubin G. Cohn; Roger W. Findley; Stephen B. Goldberg; Peter B. Maggs.

Loyola University (New Orleans): Marcel Garsaud, Jr.; Louis J. Niegel, S.J.; Howard W. L'Enfant, Jr.; John J. McAulay; Patrick A. Mitchell; A. E. Papale, Dean; William Edward Thoms, II.

Boston College: Harold G. Wren.

University of Missouri (Columbia): Joe E. Covington, Dean; Edward H. Hunvald, Jr.; Theodore E. Lauer; Henry T. Lowe; William P. Murphy; James E. Westbrook.

Stanford University: Douglas R. Ayer; John Henry Merryman.

Mr. MORSE. Mr. President, there stands in contrast to the wire from the law professors the material being circulated in opposition to the Fortas nomination by the Liberty Lobby here in Washington, D.C.

Members of Congress who are receiving letters from home will be interested, as I was, in how many of those opposing the confirmation of Abe Fortas cite the information carried in this "Liberty Letter," sometimes word for word.

So that it will be available for readers of the CONGRESSIONAL RECORD, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[Emergency Liberty Letter No. 21, July 6, 1968]

REIGN OF CORRUPTION, CRIME, AND COMMUNISM THREATENS

Abe Fortas Must Not Be Confirmed by the Senate! America cannot stand another Earl Warren as Chief Justice.

The Truth is, Abe Fortas, President Johnson's selection to be Warren's replacement, has a record of affiliation with known revolutionaries and revolutionary groups. You cannot deny—no one can—that the cold, hard facts are shocking almost beyond belief!

Let's go back to the appointment of Earl Warren in 1953. No one has done more to distort the Constitution . . . weaken law and order . . . destroy traditional moral standards than Earl Warren. This has been documented beyond possible doubt. He served his purpose well. Earl Warren—personal friend of Nikita Khrushchev—has done a fantastic job softening up America for the planned takeover.

So now Abe Fortas has been nominated to replace Warren. The American people owe it to themselves, their children and Nation to investigate Fortas closer than they investigated Earl Warren. They must understand the background, philosophy and character of the man who may soon become America's third highest-standing official.

In the enclosed Fact Sheet on Fortas, Liberty Lobby has compiled some of his public record. Look over this documentation. You will then understand the logic of his appointment. You will perceive why Fortas is so well-qualified to guide this once-free and independent Nation down the final pathway to the Communist tyranny that awaits. If you or anyone else can refute the plain facts, you are invited to try!

Abe Fortas is not a juvenile delinquent who has dabbled in Communist causes for thrills. He is a 58-year-old, convinced revolutionary, in deadly earnest. If it cannot be proven that he has spent thirty years of his life under Communist Party discipline, neither can it be shown where he has significantly deviated from the Party Line. His undeniable record of service to the CP is so clear and overwhelming that it should send a chill of apprehension down the backbone of any American who understands the immense power that will be given to this man if confirmed by the Senate.

Five years ago, no President would have dared to appoint such an avowed Leftist to such an important job. The very fact that Fortas can be given serious consideration for the Chief Justiceship is alarming in itself. It can only mean that America's time is growing short . . . that the time of crisis is so near that it is necessary for the Revolution to take the risk of revealing itself in order to insure its success.

Under Fortas' control, the Supreme Court will smash every effort by the people to restore law and order and crack down on crime, communism and corruption. Under Fortas' control, the pornographic industry will go on attacking the morals of American youth, while the narcotics industry continues assaulting their bodies and minds. Under Fortas' control, it will be "business as usual" for the communists and the underworld and the big contractors who are cleaning up on cost-plus at the taxpayers' expense—especially those who are wise enough to be clients of Arnold and Porter, his wife's prosperous law firm.

This is an Emergency more intense than at any time in the past when Liberty Lobby has been forced to spend the amount of money necessary to send an alert to all subscribers. This is an Emergency which demands the greatest and most prompt exertion from every patriotic American. Will you stand and fight now while you still have a chance?

WHAT YOU MUST DO . . . PLEASE

(1) Write, wire or telephone each of your two senators. Politely but emphatically tell them of the shock you feel that Abe Fortas could even be considered for the Chief Justiceship in the light of his background.

(2) Send copies of your letters and wires to the members of the Senate Judiciary Committee which will hear testimony on Fortas on July 11. (See your *Congressional Handbook* for names.)

(3) Persuade your friends, neighbors and relatives to also write, wire or call. Write your newspaper. Call a radio station. Tell your civic group or woman's club. Distribute copies of the enclosed Fact Sheet and this Letter. *You have permission to reprint either or both.*

(4) Help financially. The Fortas case comes on the heels of the Gun Emergency. Last month, Liberty Lobby spent $18,113.85 on coast-to-coast ads, fighting the anti-gun

bills. Now, Fortas. Tomorrow, will LBJ try to ram another disarmament treaty through the Senate before adjournment? And if he does; will Liberty Lobby be able to move? Or not?

Whatever happens, the financial resources of Liberty Lobby are exhausted. Money is desperately needed. Borrowed money must be repaid. Postage alone for this mailing cost $12,000—twelve thousand dollars that Liberty Lobby can not spare! Printing bills of about five thousand dollars will soon be in. You are reading a letter printed on credit and there is no money to pay for it.

While your Liberty Lobby works desperately to stem the ravages of an outgoing President and Senate, millions of Americans are enjoying themselves at the seashore or the lake or elsewhere on vacation. They don't want to get involved. But you are involved, and Liberty Lobby is involved, and America is involved, like it or not, and Money . . . Lots of money . . . is desperately needed to continue the fight through the summer!

We've fought and worked hard this year; the record bears it out. We've testified 14 times before Congressional committees, published millions of words, called on dozens of congressmen, raised thousands of dollars for tight congressional races. Frankly, we've been working too hard to try and raise money for emergencies like this.

You know that Liberty Lobby will go on fighting until the last dollar—the last of our credit—is used up. But . . . please don't let that happen. This is a time of crisis. Our need has never been so desperate . . . and *you* know that the need for Liberty Lobby has never been so desperate! Please respond with your maximum contribution . . . today!

Your influence counts . . . use it!

THE ABE FORTAS RECORD

1. Aided Alger Hiss and Harry Dexter White (both Communist spies) in drafting the Charter of the United Nations at San Francisco in 1945.

2. Organized the Warren Commission to investigate the Kennedy Assassination, following the identical plan proposed a week before by the Communist Worker including the selection of Chief Justice Earl Warren as Chairman.

3. Put the "fix" on Supreme Court Justice Black to overrule a Federal Court decision against LBJ in the stolen Texas primary election of 1948. Federal Judge T. Whitfield Davidson described this order as ". . . too hasty, and perhaps unlawful." Order halted all investigation of LBJ's 87 winning "votes" and elected him to the Senate.

4. Designed the "Durham Rule" on criminal insanity that has prevented conviction of killers and rapists, who, under the old rule of "knowing right from wrong" would otherwise be convicted.

5. Designed the "Gideon Rule" requiring the taxpayers to pay for lawyers for all defendants in state courts, whether or not justified.

6. Put the "fix" on three Washington daily newspapers to prevent publication of the news of Presidential Aide Walter Jenkins's second arrest for sex perversion.

7. Served in 1933 and 1934 in the Legal Division of the Agricultural Adjustment Administration. Besides Fortas, the Legal Division was made up of Jerome Frank, Thurman Arnold, Adlai Stevenson, Alger Hiss, Lee Pressman, John Abt, and Nathan Witt. Over half of these have since been identified as Communist spies.

8. Served as defense attorney for Bobby Baker until the Kennedy assassination, when he suddenly withdrew his services.

9. Married to tax-attorney Carolyn Agger, whose clients include some of America's biggest corporations (possibly because her partner-on-extended-leave-of-absence is none other than the Commissioner of Internal Revenue, Sheldon Cohen, who will some day benefit from the fees paid.)

10. Defended Owen Lattimore (perjurer, Communist spy) making use of testimony supplied by a witness (Dr. Bella Dodd) whom he knew to be a Communist, the equivalent of soliciting perjured testimony. Dr. Dodd later admitted the perjury.

11. Arranged the LBJ "trust fund" in such a manner as to allow the President to continue controlling the Johnson fortune even though it is "in trust."

12. Officer and National Committeeman of the International Juridical Association (Communist Party front group) together with Thurgood Marshall, Roy Wilkins, Lee Pressman, Nathan Witt, and others.

13. Affiliated with the National Lawyers Guild (subversive organization) in the 1930's.

14. Member of the Washington Committee for Democratic Action (subversive organization—Attorney General's list) in the 1940's.

15. Supporter of (he doesn't remember whether he actually joined) the Southern Conference for Human Welfare in 1947 (listed as a Communist Party front group for three years at the time).

16. Helped to write the "Gesell Report" for the Defense Department, aimed at forcing off-base racial integration in housing, social life, etc., of U.S. servicemen.

17. Member of Harry Dexter White's "policy-making" circle under Roosevelt. Other members were Benjamin Cohen of the Office of War Mobilization, Laughlin Currie, and Aubrey Williams.

18. Tried to "fix" the Washington press to prevent the publication of the story of Bobby Baker's "gift" of the famous stereo to LBJ.

19. Was highly praised by the Communist Party *Worker* (November 3, 1950) for denouncing the firing of certain State Department employees for disloyalty as "unfair and un-American." Fortas said the firings were the act of a "police state."

20. In appealing the firing of one Milton Friedman from a top-level post in the War Manpower Commission for disseminating Communist Party propaganda, Fortas pleaded before the Supreme Court to grant Communist Party propagandists "free commerce in opinion and political expression." (1944)

TESTIMONY OF ABE FORTAS

Hearings were held on August 5th, 1965, before the Committee on the Judiciary, United States Senate, on the nomination of Abe Fortas of Tennessee to be an Associate Justice of the Supreme Court of the United States.

Fortas was questioned by the Committee.

"The CHAIRMAN. What about the International Judicial Association?

"Mr. FORTAS. Mr. Chairman, to the best of my knowledge and belief I never attended a meeting of such an organization, never had any connection with it whatsoever. Now, this is an old charge that has plagued me for many years, including my previous two confirmations by the Senate when I was Under Secretary of the Interior, and the best I can reconstruct, and I want to emphasize that it is reconstruction, is that some time in the thirties and probably when I was on the Yale law faculty, because I was on the Yale law faculty and spent summers and vacation time in Washington in those years, someone may have written me and suggested that I join this. That was the day when joining was mighty easy, and we were all quick to do it, and I may have said, yes, and that is the totality of my connection with it, if any, and in all these years nobody has ever said that I attended a meeting or ever did the slightest thing in connection with that organization. My mind is blank about that.

"The CHAIRMAN. You never attended a meeting?

"Mr. FORTAS. No, sir.

"The CHAIRMAN. You were not active at all?

"Mr. FORTAS. No, sir.

"The CHAIRMAN. Did you pay any dues?

"Mr. FORTAS. No, sir, not to the best of my recollection."

Although Mr. Fortas cannot recall attending a meeting of this group, or paying dues, they thought so highly of him that they listed him as a member of their National Committee on their letterhead. The International Juridical Association enjoys the following citations: 1. Cited as a Communist front and an offshoot of the International Labor Defense. 2. Cited as an organization which actively defended Communists and consistently followed the Communist Party Line.

"The CHAIRMAN. What about the National Lawyers Guild? Were you a member of that, sir?

"Mr. FORTAS. Yes, sir, I was a member of that for a time. I left at the same time that Mr. Justice Jackson and a great many other people left that organization. I am sure you know its history. There came a time when it appeared rather clearly that a leftwing group had moved in to take control of that organization and a great many people left then, including me."

Fortas was not just a member of this group, found subversive by Congress, but also served on its Committee on Farm Problems.

"The CHAIRMAN. You were not a constant associate of Alger Hiss as has been charged?

"Mr. FORTAS. Oh, no, sir."

Notice the word constant. Alger Hiss and Fortas worked together in the 1930's and 1940's, including their work together in San Francisco and London, forming the United Nations. A little later, Mr. Hiss had some difficulties arise from his career as a Soviet Agent, and went to jail. That ended many of his constant associations.

The hearings made no mention of Fortas' association with the American Law Students Association, part of the American Youth Congress, which was cited as an affiliate of the U.S. Peace Committee, a Communist controlled peace front. Fortas appeared on their letterhead, as a member of the Faculty Advisory Board. His membership in the Washington Committee for Democratic Action, cited by the Attorney General as subversive, was not disclosed in the testimony. Although his association with Alger Hiss and legal defense of Owen Lattimore were questioned superficially, there was no mention of his close associations with Harry Dexter White, Laughlin Currie, Aubrey Williams, David K. Niles, and others of similar sympathies.

Fortas' memory of Communistic activity and associations may be short—but the record speaks for itself. The Senate of the United States should not overlook it.

Fortas has strong interests in dissent and civil disobedience. His newly published book, "Concerning Dissent and Civil Disobedience" is described as being "In the tradition of the American Revolutionary press." In it he states: "I hope I would have had the courage to disobey, although segregation ordinances *were presumably law* until they were declared unconstitutional." (Emphasis added.)

Mr. MORSE. Mr. President, there is nothing I could possibly say that would strengthen the constitutional arguments raised by the distinguished legal scholars who have signed the telegram that I have inserted in the RECORD. However, there are a few points I would like to make in order to help cast the nominations in the sharpest and clearest light for all of us to see.

First. The statement of the distinguished legal scholars refers to the constitutional responsibilities of both the President and the Senate. The President is obviously duty bound to fill vacancies on the Supreme Court. But the Senate is equally duty bound to participate in this constitutional process by working its will with respect to the nominees of the Pres-

ident. We have a constitutional duty to "advise and consent" or not to "advise and consent." And we cannot shirk that duty. Procrastination does not meet our constitutional obligations.

Second. The way the Senate acts with respect to the nominations is directly related to the broad problem of law and order in America. Let us not delude ourselves for a moment that law and order merely means the rapid apprehension of criminal suspects and the swift disposition of their cases. Respect for law and order is a plea that we hear every day in America. And respect for law and order includes confidence by the American people in the carrying out of constitutional processes—in this case, action by the Senate, one way or another, on the norminations of the President. This is perhaps only another way of saying that ours is a government of laws, not of men.

Third. Any unreasonable delay in following the constitutional process—a filibuster, for example prevents the Senate from exercising its constitutional obligation to take part in the process by which the judicial branch of Government is maintained as one of the three separate branches of our democratic republic. No one who claims adherence to the Constitution can, in good conscience, permit undue delay in allowing the Senate to work its will on these nominations.

Fourth. The law schools represented by the signatories to the telegram are located in every section of the country: for example, Harvard, University of Virginia, University of Mississippi, Notre Dame, University of North Carolina, University of Arizona, University of Utah, University of California, and my own State of Oregon. There is not a section of the country that is not present in the group of legal scholars. I am confident that on any substantive issue of the law, we would find opinions from these different scholars ranging over the entire spectrum of legal theory. But on this one point, they are clearly united.

Lest anyone forget, let me remind my colleagues of the specific point of the message from the law school deans and professors. In the telegram I read, there is not one word of praise for either Justice Fortas or Judge Thornberry. I personally happen to believe that both nominees are eminently praiseworthy and highly qualified for the positions to which they have been named. But that is not the point. The signers of the telegram are not urging the Senate to approve these two nominations. The distinguished legal scholars are simply urging, as strongly as they can, that the Senate "forthwith address itself to the only issues properly before it—the fitness of these nominees for the posts in question."

That is the real issue before the Senate. It is the issue I intend to face up to. And it is the issue I urge my colleagues to resolve.

There is something more important here than these two nominees, something more important than the President who submitted their names, and more important than the Senators on either side of this struggle. That is the integrity and viability of the Constitution of the United States. When I became a Member of this legislative body, I swore an oath to support and defend that Constitution. I intend to live up to my oath, and I believe that the Senate will fulfill its obligation under that great living document, the Constitution of the United States.

LAW, ORDER, AND THE HIGH COURT

Mr. WILLIAMS of Delaware. Mr. President, in the July 22, 1968, issue of the U.S. News & World Report there appears an address by Chief Justice John C. Bell, Jr., of the Supreme Court of Pennsylvania, entitled "Law, Order, and the High Court."

This address is particularly appropriate at this time when we are considering the confirmation of future nominees for the Supreme Court. I quote three paragraphs from it:

> The land of law and order—the land which all of us have loved in prose and poetry and in our hearts—has become a land of unrest, lawlessness, violence and disorder—a land of turmoil, of riotings, lootings, shootings, confusion and Babel. And you who remember your Genesis remember what happened to Babel.
>
> Respect for law and order—indeed, respect for any public or private authority—is rapidly vanishing. Why? There isn't just one reason. There are a multitude and a combination of reasons. Many political leaders are stirring up unrest, discontent and greed by promising every voting group heaven on earth, no matter what the cost. Many racial leaders demand—not next year, or in the foreseeable future, but right now—a blue moon for everyone with a gold ring around it. . . .
>
> Let's face it—a dozen recent, revolutionary decisons by a majority of the Supreme Court of the United States in favor of murderers, robbers, rapists, and other dangerous criminals, which astonish and dismay countless law-abiding citizens who look to our courts for protection and help, and the mollycoddling of lawbreakers and dangerous criminals by many judges—each and all of these are worrying and frightening millions of law-abiding citizens and are literally jeopardizing the future welfare of our country.

These remarks by Chief Justice Bell should be read by every Member of Congress and by every member of the Judiciary. I ask unanimous consent that the complete address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LAW, ORDER, AND THE HIGH COURT—A STATE CHIEF JUSTICE SPEAKS OUT

The land of law and order—the land which all of us have loved in prose and poetry and in our hearts—has become a land of unrest, lawlessness, violence and disorder—a land of turmoil, of riotings, lootings, shootings, confusion and Babel. And you who remember your Genesis remember what happened to Babel.

Respect for law and order—indeed, respect for any public or private authority—is rapidly vanishing. Why? There isn't just one reason. There are a multitude and a combination of reasons. Many political leaders are stirring up unrest, discontent and greed by promising every voting group heaven on earth, no matter what the cost. Many racial leaders demand—not next year, or in the foreseeable future, but right now—a blue moon for everyone with a gold ring around it.

Moreover, many racial leaders, many church leaders and many college leaders advocate mass civil disobedience and intentional violation of any and every law which a person dislikes.

We all know, and we all agree, that there is a need for many reforms, and that the poor and the unemployed must be helped. However, this does not justify the breaking of any of our laws or the resort to violence, or burnings and lootings of property or sitins, lie-ins, sleep-in students, or mass liedowns in the public streets, or the blockading of buildings, or rioting mobs.

Television shows which feature gun battles—of course, unintentionally—add their bit to stimulating widespread violence. Furthermore, the blackmailing demands of those who advocate a defiance of law and order under the cloak of worthy objectives, and commit all kinds of illegal actions which they miscall civil rights, are harming, not helping, their cause.

Let's face it—a dozen recent, revolutionary decisions by a majority of the Supreme Court of the United States in favor of murderers, robbers, rapists and other dangerous criminals, which astonish and dismay countless law-abiding citizens who look to our courts for protection and help, and the mollycoddling of lawbreakers and dangerous criminals by many judges—each and all of these are worrying and frightening millions of law-abiding citizens and are literally jeopardizing the future welfare of our country.

Is this still America? Or are we following in the footsteps of ancient Rome, or are we becoming another revolutionary France?

Let's consider some of these problems one by one. In the first place, we cannot think or talk about crime and criminals without thinking about the newspapers and other news media. Our Constitution, as we all remember, guarantees the "freedom of the press," and this freedom of the press means an awful lot to our country, even though it isn't absolute and unlimited.

We all know that newspapers are written, edited and published by human beings, and therefore it is impossible for a newspaper to be always accurate or always fair or always right. Nevertheless, the newspapers and other news media are terrifically important in our lives, and particularly in showing up incompetent or crooked public officials and dangerous criminals. Indeed, it is not an exaggeration to say that they are absolutely vital and indispensable for the protection of the public against crime and criminals.

No matter what unrealistic people may say, the only way it is possible for law-abiding persons to adequately protect themselves against criminals is to be informed of a crime as soon as it happens, and all relevant details about when and where and how the crime occurred, together with pertinent data about the suspected criminal or criminals.

I repeat, this is the quickest and surest way, although, of course, not the only way our people can be alerted and protect themselves.

For these reasons, it is imperative that we must resist constantly and with all our power, every attempt to "muzzle" the press by well-meaning and unrealistic persons who mistakenly believe that this press coverage with its protective shield for the public will prevent a fair trial.

I need hardly add that if the press publicity so prejudices a community that a fair trial for the accused cannot be held therein, the courts possess, and whenever necessary exercise, the power to transfer the trial of such a case to another county in Pennsylvania.

Let's stop kidding the American people. It is too often forgotten that crime is increasing over six times more rapidly than our population. This deluge of violence, this flouting and defiance of the law and this crime wave cannot be stopped, and crime cannot be eliminated by pious platitudes and by governmental promises of millions

and billions of dollars. We have to stop worshipping Mammon and return to worshiping God, and we next have to change, if humanly possible, the coddling of criminals by our courts.

The recent decisions of a majority of the Supreme Court of the United States, which shackle the police and the courts and make it terrifically difficult—as you well know—to protect society from crime and criminals, are, I repeat, among the principal reasons for the turmoil and the near-revolutionary conditions which prevail in our country, and especially in Washington.

No matter how atrocious the crime or how clear the guilt, the Supreme Court never discuss in their opinions or even mention the fact that the murderer, robber or dangerous criminal or rapist, who has appealed to their court for justice is undoubtedly guilty, and they rarely ever discuss the rights and the protection of the law-abiding people in our country. Instead, they upset and reverse convictions of criminals who pleaded guilty or were found guilty recently or many years ago, on newly created technical and unrealistic standards made of straw.

Although I do not doubt their sincerity, most judges, most lawyers and most of the law-abiding public believe that they have invented these farfetched interpretations of our Constitution with a Jules Verne imagination and a Procrustean stretch which out-Procrustes Procrustes; and either legally or constitutionally they must be changed!

Now, here is where you come in. The people of Pennsylvania need, as never before in our history, district attorneys who will without fear or favor act promptly, vigorously and, of course, fairly, to prosecute and convict the lawless, the violent and the felonious criminals who are alarming and terrifying our society. How can you do this? There are several ways which occur to me, and I am sure numerous additional ones will occur to you.

The first is: You must prosecute as quickly as possible all persons who violate any law, no matter how or under what cloak of sheep's clothing they may attempt to justify their criminal actions.

"NEWLY CREATED RIGHTS" OF CRIMINALS

Second: Study—and you will have to study as never before—all of the many United States Supreme Court decisions handed down in the last few years concerning crime and criminals, their confessions and their newly created rights. These are so numerous that I will not have time to analyze and discuss them. However, I will capsulize my feelings with respect thereto by the following quotations from the dissenting opinions in *Westbury v. Sanders* on apportioning congressional districts so one person's vote is equal to another's] which said, inter alia: ". . . The constitutional right which the Court creates is manufactured out of whole cloth;" and in the dissenting opinion in *Lucas v. Colorado General Assembly* [on apportioning the Colorado legislature on the basis of population], where one of the dissenting opinions said:

"To put the matter plainly, there is nothing in all the history of this Court's decisions which supports this constitutional rule. The Court's Draconian pronouncement, which makes unconstitutional the legislatures of most of the 50 States, finds no support in the words of the Constitution, in any prior decision of this Court, or in the 175-year political history of our federal union. . . ."

In the very recent case of *Witherspoon v. Illinois*, which was decided on June 3 of this year, the dissenting Justices went even further, and said that the majority opinion was completely without support in the record and was "very ambiguous." With these conclusions I strongly agree.

However, what is more important is the question of what *Witherspoon* really holds. The majority opinion thus summarizes it:

"Specifically, we hold that a sentence of death cannot be carried out if the jury that imposed or recommended it was chosen by excluding veniremen for cause simply because they voiced general objections to the death penalty or expressed conscientious or religious scruples against its infliction . . . Nor does the decision in this case affect the validity of any sentence other than one of death. Nor, finally, does today's holding render invalid the conviction, as opposed to the sentence, in this or any other case. . . . We have concluded that neither the reliance of law-enforcement officials nor the impact of a retroactive holding on the administration of justice warrants a decision against the fully retroactive application of the holding we announce today."

Third: You will have to more carefully and more thoroughly prepare your cases than ever before, especially on the question of the voluntariness and admissibility of confessions, in order to avoid new trials, now or 25 years from now.

WHY RECORDS ARE IMPORTANT

Fourth: You will have to personally make sure that a complete, detailed record is kept of all the trial and pretrial and postconviction proceedings in every case, in order to adequately answer and refute, immediately or many years after the trial, a convict's contentions that he was deprived of a number of his constitutional rights.

These allegations of unconstitutionality may include a contention that his confession or guilty plea was coerced or involuntary; or that he did not have a lawyer at the taxpayers' expense at the time of his confession, or any time to adequately prepare his case; or that he was not advised or did not understand all his rights at every critical stage of the trial and pretrial proceedings, including his right to remain silent; and all his other required constitutional warnings; or that he was not competent to stand trial; or that he was insane; or that his lawyer was incompetent; or that he was not advised of his right to appeal and to have a tax-paid lawyer represent him in his appeal; and also every imaginable lie which he can invent; as well as every technical defense which an astute criminal lawyer can, after the trial or after many postconviction proceedings, conceive.

Fifth: You will have to aid, of course, diplomatically, every trial judge, in order that his rulings and his charge to the jury and his statement of the law and the facts are accurate, adequate, fair and comply with all the recently created technical standards.

Sixth: And this is very, very, very important—I strongly recommend:

First, that your association state courteously and publicly the position of the District Attorneys' Association of Pennsylvania with respect to every decision of the Supreme Court of the United States and of an appellate court of Pennsylvania, which the association is convinced is unfair to our law-abiding people and is unjustified by the Constitution or by any statutory law, together with the reasons and the legal authorities which support your position; and that you simultaneously send a copy of all of the association's recommendations, resolutions and criticisms to the Supreme Court of the United States, and to the appellate courts of Pennsylvania.

Second, that each of you write, and likewise be sure to see the members of the State legislature from your district and your Congressman and your two United States Senators about the association's recommendations and resolutions and criticisms, and the reasons for the association's opinions and convictions.

Finally: You must fight with all your might and power and as never before for all the law-abiding people of our wonderful State who are consciously or unconsciously relying upon you and the courts to protect them from felonious criminals and from all lawbreakers.

ADDRESS BY SENATOR YOUNG OF OHIO BEFORE THE MARITIME TRADES DEPARTMENT, AFL–CIO

Mr. MOSS. Mr. President, on July 10, at the Statler-Hilton Hotel in Washington, our colleague, the junior Senator from Ohio [Mr. YOUNG], delivered a notable address before the Maritime Trades Department, AFL–CIO. I ask unanimous consent that the address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR STEPHEN M. YOUNG ON JULY 10, 1968, BEFORE THE MARITIME TRADES DEPARTMENT, AFL–CIO

I am delighted to be able to be with you today, to discuss some of the problems that face the U.S. merchant marine. You have my fervent gratitude for inviting me to be guest speaker today.

As you know, I come from Ohio—from the heartland of America. However, my state has a very real connection with maritime affairs. For one thing, my state borders on America's fourth seacoast—the Great Lakes. Ohio's economy is therefore immediately affected by maritime policies, or the lack of maritime policies, at the national level. For years, we have watched with dismay as foreign-flag ships have moved in ever-increasing numbers into the Lakes—challenging our economic future with low-wage shipping that could put our Great Lakes fleet completely out of business.

Ohio is laced with important navigable rivers which are an integral part of the network of inland waterways serving the interior commerce of this nation. For years, inland waterways traffic has benefitted my state and other midwestern states. Today, this is threatened by moves which would eliminate the tax-free status of these waterways, and by efforts of the Interstate Commerce Commission to limit the cargoes moving on river barges.

As a state whose agricultural and industrial products are exported around the world, Ohio has a direct involvement in a strong U.S.-flag merchant fleet. Our industries depend to a considerable extent on raw materials imported from abroad and on the export of finished products and raw materials to other nations. Ohio relies heavily on the ability of this nation to maintain an active merchant fleet for our industrial output. We must not be left to the mercy of foreign-flag shipping.

For these reasons, working men and women and businessmen in Ohio have a stake in our merchant marine. In addition, we are as concerned as other Americans, whether in the heartland of America or in the coastal states, about such things as our balance of payments, our ability to meet and resist aggression and our international prestige. The merchant marine has an important contribution to make in all of these areas.

We live in difficult times. We are involved in an ugly civil war thousands of miles from home—a war which costs us dearly in American lives and American dollars—more than 145,000 young Americans killed and wounded and the expenditure of more than $30 billion a year—all blown up in smoke. We are involved here at home with problems of major and pressing importance—slums, poverty both in urban and rural America, crime, the elimination of disease, adequate education for our children and providing equal opportunity for all of our citizens. All these problems so long neglected place heavy demands on the public treasury. Beyond that, we must battle against inflation at home and

reduce our international balance-of-payments deficit. Unless our economy remains strong, we will be unable to do the things which must be done if we are to begin to cure the domestic evils afflicting our country.

To meet these problems, it is necessary to have some sensible system of priorities for spending taxpayers' money. Inevitably, when you begin to talk about priorities, people look around for places to cut spending. This will come as no surprise to those of you in the merchant marine. For years, you have been the almost instantaneous victims of all so-called "economy" efforts in the federal government. Frankly, some of the budget cuts which have affected the maritime industry in the past have been neither fair nor equitable. Too often, the merchant marine has been the whipping boy. This is why today we have a fleet that is outmoded and that should long ago have been replaced with modern, efficient, speedy vessels to give our foreign competitors a run for their money.

I am not sure that maritime economic problems are going to be solved quickly in the immediate future. Unfortunately, for a long time to come, there will be too few federal dollars available to do an adequate job of upgrading the American merchant marine.

This is not necessarily bad. Perhaps there has been too much emphasis placed on government spending for maritime affairs, and too little thought given to ways to encourage greater private investment in our fleet. I believe the problem has arisen because a small portion of our active fleet has been subsidized by the government and, unfortunately, these subsidies have not been used wisely or well. We have given too much attention to subsidized operators and too little attention to independent operators. In the process, we have made the entire industry a captive, not to subsidies but to the *concept* of subsidies, and in the process we have stifled private initiative throughout the merchant fleet.

I think it is time to put private enterprise back into the business of running our merchant marine. This can be done without increasing by one cent the present level of government in the merchant marine.

Let us take the problem of the deep-sea fleet first.

At present, we subsidize 14 liner companies so that they can compete with foreign-flag ships. These subsidies are essential, because we *must* be able to compete for the billions of dollars worth of commercial cargo moved in our foreign trade. The purpose of the subsidy is very simple: It makes it possible for an American ship to charge exactly the same rate for moving a ton of freight as a foreign ship charges. To the shipper, it thus makes no economic difference whether his goods move on American vessels or foreign vessels. But somewhere between the concept and the reality, something has obviously gone wrong. Foreign-flag ships are carrying almost 95 percent of our imports and exports. In other words, we have made 14 American shipping companies competitive with foreign shippers, but they are not competing for commercial cargoes, as Congress intended when it first created the subsidy system.

The fact is that the subsidized lines are using their subsidies not to compete with foreign ships for commercial cargoes but to compete with other American ships for the carriage of government cargoes. This was documented more than two years ago by the Joint Economic Committee, which made a detailed study of discriminatory ocean freight rates. Instead of getting out into the market place and competing for commercial shipments, the subsidized lines are taking a second bite out of the apple by carrying military cargoes and foreign aid shipments—and carrying them at preferential rates.

The time has come to end this double subsidy. The government should give priority on military and foreign aid shipments to the independent operators—and in cases where the subsidized lines *do* carry this government cargo, they should do so without the benefit of double subsidies.

If the subsidized lines would concentrate on commercial cargoes, as they are supposed to, and if government cargoes were reserved for independent operators, several things would happen. For one, there would be an increase in the amount of commercial goods moving on U.S.-flag ships. This would have an immediate impact on our balance of payments. For another, there would be an upsurge of new ship construction by the independent segment of the industry—an upsurge that would come entirely with private capital. This would mean more business for our shipyards; it would mean newer and more efficient ships operating under the American flag; and it would greatly ease the pressures on the government for additional subsidy dollars to keep our merchant fleet afloat.

Along with ending to the double subsidy, federal agencies should be encouraged to enter into long-term charters with independent operators to carry government cargo. The government knows its long-term needs for ships to move facility supplies, household goods and foreign aid material overseas. When they make their forecasts on shipping needs, federal agencies could often issue long-range charters to the shippers. After all, subsidized operators now have contracts with the government. They know how much federal assistance they can count on for the next several years. The unsubsidized operator also must be able to look into the future. As long as he is held to a voyage-by-voyage arrangement, he is hard pressed to sit down with a financial institution and negotiate for the funds necessary to build new vessels. The long-range charter system would encourage private investment in new ships and it could be put into effect without the appropriation of any additional dollars for the merchant fleet.

The independent ship operators also need the same arrangement that subsidized lines now enjoy, whereby they can put their earnings into tax-deferred funds so that they can accumulate the capital necessary to build ships. For 32 years this privilege has been enjoyed by the 14 subsidized operators, but denied the independent operator. Simple justice demands that this privilege be extended to the entire merchant marine—to the Great Lakes operator, to the fishing fleet, to the inland waterways operator, as well as to all of the operators, subsidized and unsubsidized alike. Again, this would encourage private investment, and would make it less necessary to consider the appropriation of huge federal sums for shipbuilding.

Now let us look at the problem on the Great Lakes.

The American ocean-going fleet is considered to be obsolescent, since 80 percent of our ships are over 25 years of age. On the Great Lakes, the situation is even more acute. The average age of the ships of our Lakes fleet is 42 years—and 40 percent of all of the American vessels on the Lakes were built before 1915. What's more, the Great Lakes fleet has diminished by almost one-third in the past ten years despite the fact the St. Lawrence Seaway was supposed to breathe new life into Great Lakes shipping.

I have already suggested one step that could be taken to help our Great Lakes fleet—the creation of tax-deferred funds for these operators so that they could build up construction reserves. Recently, the Great Lakes Conference of Senators, of which I am privileged to be a member, proposed three other steps essential to the restoration of American-flag shipping on the Lakes.

(1) That we earmark $8 million out of the $200 million appropriated each year for operating subsidies to enable American-flag shipping to compete with foreign vessels in Great Lakes commerce. Unless we do this, foreign shippers will continue to cut deeply into the commerce of this area.

(2) That we allocate not less than 25 percent of construction subsidy funds for the building of American vessels that will be physically able to use the St. Lawrence Seaway. Most of the construction subsidy money now being allocated will go for ships which are too wide to enter the Seaway. As things stand now, Great Lakes taxpayers are paying part of the cost for subsidies that are putting our area out of business as far as modern new vessels are concerned.

(3) That we earmark $7.5 million of the Defense Department budget for carrying military cargo on the Great Lakes. At present, great quantities of military shipments move out of the midwest, but little of this cargo moves by water. The Defense Department would save substantial sums by moving this cargo aboard ships, and the move would pump new life into American shipping on the Lakes.

None of these three proposals would involve any further appropriation of funds. They would merely stipulate how existing monies should be used to help bring about the revival of our Great Lakes fleet, which has a potential for contributing much to our economy.

Let me turn now to our inland waterways.

Since the founding of this nation, we have adhered to a policy of leaving our inland waterways free by any taxes. This has contributed greatly to the expansion of inland waterway traffic. For years, we have continued to develop our waterways, to provide a reliable and economical means of moving billions of tons of goods from the great heartland of America.

This concept of free domestic waterways is now threatened by a proposal to levy a "user tax" on towboats, tugs and other inland water vessels through a 2-cent-per-gallon tax on the fuel used by these vessels. This tax would violate the basic principles which have guarded and governed the free use of these waterways down through the years. It would impair the usefulness of the waterways system. It would slow down the economic growth of the interior section of our nation. I will oppose such a tax to the uttermost.

This "user tax" must never be imposed—for it would imperil the best and cheapest system of bulk transportation in the world.

Also, the proposed ruling by the Interstate Commerce Commission which would seriously restrict the mixing of cargoes on barge operations—if it ever were applied—would cripple inland waterway barge operations. At the request of Congress, the ICC has deferred application of this proposed rule until next year. I am pleased that . .e Maritime Trades Department joined with Senate and House members in urging that no action be taken to implement this rule at this time. This one-year delay will make it possible for Congress to act on legislation that will permit the proper development of our inland waterways commerce.

Unless this is done, all of the technology that has been developed during the past three years on our inland waterways will be thrown out the window. The costs of carrying commodities on inland barge operations will go up; shippers will be penalized; and the amount of commerce moving on the waterways will plummet. We cannot afford to let this happen.

I know that I have ranged over a wide area today—from deep-sea shipping, to the Great Lakes, to our inland waterways—but all of them are vital to the development of the full maritime potential of America.

These are areas which will require action in the very near future—probably not in this session of Congress, for time is running out on us; but surely they should be tackled with vigor next January in the opening days of the 91st Congress. We have delayed for too long in facing up to our maritime defi-

ciencies; we have relied too much on past concepts of subsidies; we have given too little attention to encouraging free enterprise in maritime affairs. We have paid the price—in the loss of our shipping and shipbuilding leadership.

Working together—you in maritime labor and management, and we in the Congress—can reverse this decline; we can rebuild our fleet; we can recapture our rightful place as a maritime leader; we can strengthen our national defense posture; and we can make sizeable reductions in the balance-of-payments deficit.

Friends in this grim period of international anarchy and war let us look toward the future with hope.

We should strive to keep our nation secure, free and powerful and to have as a legacy to our children and grandchildren a country that is the last best hope for permanent peace in the world.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Ohio [Mr. YOUNG] be permitted to address the Senate for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENCY FOR INTERNATIONAL DEVELOPMENT OPERATION IN SOUTH VIETNAM

Mr. YOUNG of Ohio. Mr. President, unfortunately for American taxpayers, there are many thousands of civilian officials and employees crowding Saigon and elswhere in South Vietnam. The operation of the Agency for International Development throughout Vietnam is scandalous. The extravagance of AID officials and employees is astonishing.

Last January while in Vietnam, I encountered many hundreds of civilian officials. They were all over the place enjoying high salaries and allowances and doing little, if anything, to earn them. Never have so many been sent so far at such great expense who have done so little.

The fact is that of AID officials in South Vietnam the Director receives in excess of $44,000 per year; 28 receive in excess of $41,700 per year; 82 receive $35,500; 262 receive in excess of $30,000; 409 receive in excess of $24,600 and 76 receive more than $19,000 per year.

This is outrageous. What justification is there for the AID head in Vietnam to receive almost $5,000 a year more than the Chief Justice of the United States? What possible reason can be given for paying 110 other AID officials a greater salary than that received by members of the Cabinet, Senators, and Congressmen? What excuse for paying 262 additional AID officials salaries the same amount received by Members of Congress? It is scandalous that 782 AID officials in Vietnam are now being paid $25,000 a year or more. In addition to their base salaries these officials are given a 25-percent hardship allowance, a $3,000 separate maintenance allowance, and fringe benefits including air-conditioned housing at our taxpayers' expense and medical care and all PX and commissary privileges. There is evidence that many sell cigarettes, whisky, radios, and other PX and commissary merchandise to South Vietnamese.

From my observation and knowledge, I know that some of those civilians who receive PX and commissary privileges—including employees and officials of AID—buy whisky and cigarettes from the commisary at wholesale rates and that commissary merchandise has been turned over to the South Vietnamese. The black market in Saigon is a disgustingly huge operation.

Those Senators who served in World War II know that at that time in Italy, or anywhere else in Europe, any stores displaying American cigarettes would be raided immediately and closed by our military police.

Many of these overpaid and underworked AID officials are expected to work in refugee camps, so-called. Some have refused to remain in refugee camps because of "lack of security." A typical example of AID maladministration concerns five forestry experts, so-called, each with an annual salary including fringe benefits exceeding $38,000. They live in air-conditioned, high-rent apartments paid for by our taxpayers; and they work—or supposedly work—in an area where there has been no timber whatever for many years.

Furthermore, Mr. President, there is no supervision over or accounting of AID equipment turned over to officials of the Saigon military regime. AID officials should know of the universal corruption in South Vietnam and that of the billions of dollars of equipment and merchandise shipped to Vietnam more than 60 percent has been appropriated or stolen by South Vietnamese officials.

Undoubtedly, there must be some honest, dedicated men working for the Agency of International Develoment in South Vietnam and Laos. In fact, when visiting these two countries last January, I met and talked with a few I considered to be outstanding as representatives of our Government and as men really interested in their work. However, there are also many, many more American civilian officials and employees in Vietnam, Thailand, and Laos who have been failures or job-hoppers in the United States. In South Vietnam they build fat bank accounts. As I have said, many of these AID civilian employees abuse their PX and commissary privileges and fatten the black market operations of Saigon by reselling expensive items purchased at our PX's. It is astonishing that generals commanding our military police in the Saigon area and throughout South Vietnam tolerate the open sale in the blackmarket of cigarettes, whisky and a great deal of other merchandise purchased through United States commissary and PX outlets. The truth is American officials in Washington and in South Vietnam seem to encourage such illicit operations instead of cracking down on them.

Mr. President, very definitely some AID officials should be dismissed. Our appropriation for these scandalously overpaid and unneeded AID officials should be drastically cut. It is high time that many of these officials be removed from the public trough.

Mr. President, instead of enriching the bank accounts of AID and other civilian officials in Vietnam, we should be making a greater effort to end our involvement in that ugly civil war and to end the destruction, the carnage, the bloodshed, and the waste of taxpayers' money. President Johnson should forthwith order all bombing of North Vietnam to stop immediately. If the President were to do this, in all probability the stalled peace talks in Paris would begin to make real progress toward an armistice and ceasefire.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROL OF JUVENILE DELINQUENCY—CONFERENCE REPORT

Mr. CLARK. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12120) to assist courts, correctional systems, and community agencies to prevent, treat, and control juvenile delinquency, and for other purposes. I ask unanimous consent for consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The bill clerk read the report.

(For conference report, see House proceedings of July 18, 1968, pp. 22041–22048, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CLARK. Mr. President, I recommend favorable action by the Senate on the conference report on Juvenile Delinquency Prevention and Control Act of 1968. I am proud of the bill the conference has produced and believe it will help overcome the soaring rate of juvenile delinquency in this Nation.

In my view the key to controlling crime is to prevent juvenile crime and to provide effective rehabilitation of juvenile offenders. Last year eight of every 10 automobile theft arrests, seven of every 10 arrests for burglary and larceny, and five of every 10 arrests for robbery were of persons under 21. Our 15- and 16-year-olds are arrested more frequently than any other age group. While the population under 18 years old

grew by only 17 percent between 1960 and 1965, the number of arrests in that age bracket went up by 47 percent.

Despite these alarming trends our efforts at rehabilitating delinquents have been largely ineffective. Mere involvement of an individual with the juvenile justice system increases the chances he will return to that system. The recidivism rate among youth who have been institutionalized runs as high as 50 percent. Consequently, I am gratified that the conferees accepted a 3-year bill as the Senate proposed with $25 million, $50 million and $75 million.

The conference bill gives the major role of combating delinquency to localities operating under State plans. The House accepted the specific criteria for the State plans in the Senate bill and agreed that until the Secretary of Health, Education, and Welfare has approved a State plan he can make direct grants to localities. I expect that initially the bulk of the funds will be granted on a Federal-local basis until the States can meet the Senate criteria and pay one-half the local share.

The Senate bill contained "bypass" provisions that permitted the Secretary of Health, Education, and Welfare to make direct grants in a State that had an approved State plan. The Senate receded from these provisions.

The positive feature of involving the States in the manner the conferees specified are:

First. The State must "buy in"; hence, it can take on the block grant role only if it is willing to relieve the localities and local private groups of one-half of their matching share;

Second. The State plan must provide a comprehensive overview of problems in the State and set forth priorities for action, and it must involve a means for program evaluation and for the communication of successful techniques throughout the State; and

Third. It must reflect coordination between juvenile delinquency efforts and State activities in the education, manpower, welfare, and crime prevention fields, and must show an application of resources under those other programs to juvenile delinquency programs. This is thought to be especially important, since a major set of financial and other resources needed to attack delinquency exists under established programs such as elementary and secondary education.

In other important respects the conference report coincides with the Senate version. Of particular importance are the following points.

The House accepted the Senate provision for planning and technical assistance.

The House accepted the Senate allocation limits including requirements no State can get more than 15 percent or less than $100,000.

The House accepted the Senate provision for training grants and agreed these grants should be on a project grant basis, rather than a State plan.

In sum, the conferees have adopted a much modified State plan-block grant approach, but with very significant safeguards for localities and with special benefits accruing to State participation. I regard it as a significant breakthrough in Federal-State and local relations.

Mr. President, I move that the conference report be agreed to.

The report was agreed to.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MORSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANOTHER FRINGE BENEFIT FOR THE BUREAUCRACY

Mr. YOUNG of Ohio. Mr. President, it was startling to read in the Washington Post that the heads of some Government departments and agencies have taken it on to themselves to liberalize the nationwide travel rules for Federal workers in these agencies and departments. It will now be the rule, it was stated, that when employees are required to work after dark they have authority to take a taxicab home and the agencies will pick up the tab and in addition pay the driver a 10-percent tip, all with the compliments of the agency and at the expense of taxpayers. This, in addition to the salaries and overtime allowance given civil service workers.

Now some of these same agencies are planning to offer to pay for dinner for all employees working after dark to complete work even though they should have completed that work long before dusk. It is well known that in many Government agencies and departments the work is light and the pay is good. Here is an added fringe benefit. The department head who first proposed and adopted this policy evidently thinks money is going out of style—so he proposed to get rid of more, particularly the taxpayers' money and as quickly as possible.

Americans should know the truth, and that is that the Federal bureaucracy is vastly overstaffed. One example is the State Department, which, including its foreign service sections, is one of the most overstaffed and underworked departments in the Government. Employees and officials of the State Department number approximately 33,000. In addition, there are many civilian employees of various other Government alphabetical agencies who clutter up our Embassies throughout the world. In addition, there are Army, Navy, Marine, and Air Force officers assigned as aides in Embassies enjoying this pleasurable so-called tour of duty instead of sweating in Vietnam. Also, there are more than 1,300,000 civilian employees, men and women, in the huge Department of Defense. The number of personnel in various Government departments could be drastically cut and there would be no ill effects to the Nation. In fact, we Americans would benefit if the huge total of personnel were greatly reduced in number as the unnecessary spending of huge sums of taxpayers' money would then be drastically cut.

FORMER EQUAL EMPLOYMENT OPPORTUNITY COMMISSIONER SAMUEL JACKSON APPOINTED TO AMERICAN ARBITRATION ASSOCIATION

Mr. JAVITS. Mr. President, I call the attention of the Senate to the fact that on June 30, 1968, the term of Samuel Jackson as a member of the Equal Employment Opportunity Commission expired. It is a matter of the utmost regret to me that the President has chosen not to reappoint Commissioner Jackson for another term. I had personally recommended his reappointment and I know that several other Senators and a number of interested civil rights groups had done likewise.

Mr. President, Commissioner Jackson served as a member of the Equal Employment Opportunity Commission for 3 years. Those 3 years were the first 3 years of the Commission's life; they were years when the Commission was called on to face and overcome innumerable problems. Woefully underfunded since its inception, the Commission has been forced to cope with an ever-increasing backlog of cases, each one of which involves difficult and delicate issues. With Commissioner Jackson's help during this period, the Commission has, I believe, compiled an excellent record, notwithstanding these difficulties. Throughout his term of service, Commissioner Jackson performed the duties of his office with unrelenting zeal; and with the highest devotion to the cause of equal employment opportunity. He has earned the most profound gratitude of all of us who are interested in that cause.

I am extremely pleased to note that although Commissioner Jackson will no longer be serving as a member of the Equal Employment Opportunity Commission, he intends to remain in the forefront of the fight to achieve racial and economic justice in this Nation. He has been appointed as the director of a most promising new service being developed by the American Arbitration Association. The AAA, which has pioneered in the voluntary settlement, through arbitration, of disputes in the commercial and labor relations area, will attempt to offer the same type of services in hope of promoting voluntary resolution of the disputes on racial and economic matters in the ghettos of our cities. The AAA is certainly to be commended for the spirit which has motivated it to embark on its new experiment and for its acumen in choosing a man of the stature of Samuel Jackson as the director of the project. I am sure that the experience Commissioner Jackson obtained while a member of the EEOC will prove invaluable in helping to resolve the disputes arising out of the tensions of ghetto life.

I feel that I express the feelings of many Senators in wishing Commissioner Jackson the best success in this important new program.

AMENDMENT OF MARINE RESOURCES AND ENGINEERING DEVELOPMENT ACT OF 1968—REFERRAL TO COMMITTEE

Mr. BYRD of West Virginia. Mr. President, on Monday, July 15, 1968, the dis-

tinguished majority leader asked for and secured unanimous consent that the Committee on Labor and Public Welfare be instructed to report Calendar No. 1360, H.R. 13781, the sea-grant college proposal, to the Senate before the close of business on Wednesday, July 17.

Mr. President, I ask unanimous consent to amend that order to provide for the reporting of the bill to the Senate before the close of business on Thursday, July 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC USE OF ACCESS ROAD TO DULLES INTERNATIONAL AIRPORT

Mr. BYRD of Virginia. Mr. President, the people of northern Virginia have a natural interest in seeing Dulles International Airport live up to its potential as one of the world's greatest airports. But, so should all taxpaying Americans. More than $110 million of tax money was invested in the construction of that facility.

Dulles International was designed to provide Washington with an airport capable of handling the most modern jet aircraft.

It was located far enough away from Washington to minimize safety hazards.

Unfortunately Dulles has not been used to the best advantage. The airline companies have introduced jets into National Airport and they have continued to favor that airport even though the congestion of flights at National has become a serious safety hazard. I believe every effort must be made to divert some of those flights to underutilized Dulles.

Mr. President, I am under no illusion that this is going to happen overnight. Even with our best efforts, it will be several years before Dulles is receiving the traffic it is designed to accommodate. It will be several years before Dulles will be self-supporting and the taxpayers will be receiving a fair return on their investment.

In the meantime, I believe we ought to make the best possible use of the Dulles access road which is now restricted to traffic going to and from the airport.

The amount of traffic on that road today simply does not justify these restrictions. The highway could easily accommodate three times as many vehicles as now use it, without slowing the traveltime to the airport.

I believe the Dulles access road could and should be open to local traffic until the day when business at the airport requires its exclusive use.

This would represent a great convenience to the people of northern Virginia and it would serve as an interim solution to some of the traffic problems of the Washington metropolitan area.

Temporary ramps leading on and off the highway could be built at a number of points on the condition that State and local communities bear the cost of construction. I am sure this could be worked out.

In the past, however, the Federal Aviation Administration has opposed this idea largely on grounds that it would be difficult to close the road to local traffic once the airport required exclusive use of the highway. I believe this concern is exaggerated.

To begin with, the road could be closed at any time by the simple expedient of blocking the temporary access ramps which would be constructed. The State and local communities have agreed to this.

Long before this happens, however, improvements in the transportation system of the area will be completed, including the four-laning of Route 7, and Route 50, the completion of Route 66.

With these alternate routes available, local traffic would no longer need the Dulles access road. It would be a simple matter to restrict the highway again to airport traffic.

I have called upon the Secretary of the Department of Transportation to reconsider this proposal.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a resolution adopted by the Herndon Chamber of Commerce on June 18, 1968.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE HERNDON CHAMBER OF COMMERCE

(Passed by Board of Directors on June 17th and by membership at meeting of June 18. Presented to Herndon Town Council at their regular June meeting, June 18, 1968.)

Dulles International Airport represents a significant source of economic growth for Northern Virginia in general and the Town of Herndon in particular. The continued and hopefully accelerated expansion of air traffic (both people and freight) demands that county officials, Northern Virginia legislators, town officials, businessmen and private citizens promote Dulles as the most modern jetport in the world. Therefore, no plan should be sponsored, no proposal advanced, no project promoted, no undertaking approved, and no proposition supported that would in any way adversely affect the growth of Dulles Airport. However, if it be determined by the proper government officials that access to the Dulles Airport Road will not be detrimental to the growth of Dulles as the Nation's Capital Jetport, then such access should be granted at State Road 657 (Centreville Road) which would benefit the Town of Herndon, a Virginia municipality.

ORDER FOR CONSIDERATION OF INDEPENDENT OFFICES APPROPRIATION BILL AND RECOGNITION OF SENATOR JAVITS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the consideration of the unfinished business, the independent offices appropriation bill be laid before the Senate and made the pending business, but that before debate starts on that bill, the distinguished Senator from New York [Mr. JAVITS] be recognized for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OPEN PRESIDENCY

Mr. CLARK. Mr. President, on Thursday of last week, July 11, 1968, Vice President HUMPHREY was to have delivered an address at Town Hall in Los Angeles on the subject "Open Presidency." Unfortunately, the Vice President was prevented by a slight illness, from which I understand he is now recovering, from delivering his remarks in person.

I believe this speech is a most significant statement from our former colleague, setting forth his views on the role of the Chief Executive under our tripartite system of government. One sentence, it seems to me, is particularly worthy of note. Vice President HUMPHREY says:

The next President will strive particularly to reach the people whose disappointment over America is keenest—including the most idealistic of our young people—because their basic hope for America is perhaps the deepest.

Mr. President, I can think of few things as important as ending the estrangement of many of our most talented and effective young people from the political and social life of our country. The future of our Nation is in their hands; we badly need their idealism to set the goals for which we must strive in the years ahead. I find myself strongly in accord with the emphasis Vice President HUMPHREY has placed upon this objective.

I ask unanimous consent that the complete text of the Vice President's address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF VICE PRESIDENT HUBERT H. HUMPHREY AT THE TOWN HALL LUNCHEON, LOS ANGELES, CALIF., JUNE 11, 1968

The distinguishing characteristic of American democracy has been its capacity for dynamic—but at the same time orderly—change.

We have always been impatient with the status quo.

Restless . . . rarely satisfied . . . always demanding more of ourselves—raising our standards: These characteristics have kept America young—even as we approach our 200th anniversary

We have invited controversy of ideas, and used disagreement and dissent as testing, tempering forces.

But there has been the other side to it.

Self-criticism, as Adlai Stevenson once said, has been democracy's secret weapon.

But so has self-respect.

So has self-confidence.

This balance has given American democracy an uncommon degree of responsiveness and stability.

Today this balance is challenged.

Established institutions—public and private—are being tested by the rush of events and the demands of a new day . . . and a new generation.

But the reasoned dialogue which democracy requires is too often interrupted by the shouters and the walkers-out. Confrontations and ultimata can never substitute for free-swinging debate—however spirited.

Our political debate is too much focused on personalities and not enough on the critical issues which confront America.

It is time to restore this balance between self-criticism and self-confidence . . . between dissent and dialogue.

This does not permit any closing of democracy's processes.

It requires, on the contrary, increased vigor in assuring even fuller opportunity for participation in those processes.

It requires open government—with maximum opportunity for the citizen to take part in the affairs of his government.

It requires the candidates for the Presidency to speak precisely of their plans for the conduct of this high office and how, as President, they would take account of our present circumstances in America.

Whoever becomes President next January will discharge the traditional demands upon that office: To build consent . . . to magnify the people's conscience . . . to cause them to see what they might otherwise avoid . . . to recommend to the Congress measures for the redress of grievances and injustices . . . and then fight for their passage . . . to conduct international discussions directed toward a more peaceful world . . . to counter threats to domestic tranquility and national security.

He will face, as have few before him, the insistent demand *now* for one citizenship for all Americans—one birthright of freedom and opportunity to which all may claim equal inheritance.

We shall know in our time whether this democratic ideal can be won—or whether America, despite her momentous achievements and her promise, will become another of history's false starts.

Realizing the fullness of our democracy will depend, first and foremost, *upon our ability to extend the promise of American society to every citizen in an environment where the rights of all are preserved—peacefully and without violence.*

The next President will strive particularly to reach the people whose disappointment over America is keenest—including the most idealistic of our young people—because their basic hope for America is perhaps deepest.

The next President must be America's teacher and leader—expressing our highest aspirations for justice and peace, at home or abroad. He must simultaneously be student and follower—learning from the people of their most profound hopes and their deepest concerns.

Teacher and student . . . leader and followers: The Presidency demands that both sides of the equation be kept in balance. To gravitate toward either extreme for any period of time invites either tyranny or chaos—oppression or license.

Our circumstances today call increasingly for an Open Presidency.

Open in the sense of assuring the fullest possible use of that office to inform the American people of the problems and, even more, the prospects we face.

Open in the sense of stimulating the frankest and widest possible discussion and ventilation of America's problems—both inside and outside government.

Open in the sense of marshaling, the spirit and mobilizing the energies of America to complete the attack on urban decay . . . illiteracy . . . unemployment . . . disease . . . hunger.

Open in the sense of a readiness to use the Presidency as the instrument not for the enlargement of the federal executive function, but for the distribution of such responsibility to states and localities ready to accept it.

Open in the sense of greater access to all the people. An Open Presidency must be a *strong* Presidency . . . one that draws its strength from direct and daily closeness to the people.

And part of that strength will be found in reshaping the Executive Department to make it more responsive to individual—as well as "national"—needs.

I suggest these more specific courses of action to develop the concept of the Open Presidency:

First. There must be new channels of communication with the President for those persons previously excluded from meaningful participation in our national life because of race, poverty, geography, or modern technology and industrialization.

This is especially needed in the Executive branch of government. Today the Presidency provides principal initiative in drawing up America's agenda of action—Congress then responds and reviews the President's proposals.

It is vitally important that popular involvement occur *before* governmental programs reach the legislature. And there is need for greater popular participation once the executive departments come to administer acts of Congress.

We should consider establishing *Councils of Citizens* in the Executive Office of the President and in each major executive department—to promote the broadest range of public discussion, debate and popular consultation.

Members of these Councils could solicit ideas, reactions, and grievances from all segments of the general public.

Prior to any major departmental decision, such as the promulgation of administrative guidelines, persons affected by decision could be fully consulted.

In like manner, Neighborhood Councils of Citizens could be established in metropolitan and rural areas. Local decisions have national dimensions. Citizens need a place near their home to speak up, sound-off, or simply register their opinions.

Neighborhood Councils can dispel fears. They can start people talking . . . and knowing each other better. Some form of financial incentive or assistance to encourage the formation of local councils should be considered.

Second. We must encourage new and imaginative combinations of governments, groups, and individuals committed to solving our critical domestic problems—combinations of power and interest which go far beyond the traditional interest groups of American life.

The past decade has taught us how the challenges of urban life . . . of poverty . . . of mass education . . . of employment . . . are insufficiently met by governments acting alone, or by private action if its immediate interests are pursued in isolation from society's broader goals.

These problems demand the commitment of society's *full* resources applied in ways which produce maximum impact—and often these combinations will occur outside the established channels of "government" or "business."

We are only beginning to understand the new institutions and procedures which can do the job.

The National Alliance of Businessmen—private business leaders who are carrying forward a major part of the federal government's assault on hard-core unemployment—not only illustrates a partnership of *public* and *private* members, but also one which operates on national, regional and local levels.

The Urban Coalition represents a different but equally creative approach to marshalling society's resources in the struggle to rebuild and renew the American city—a common front of concerned private citizens polling their energies and talent on the national and local levels.

The Presidency should continue to develop as a forum for the private groups and individuals whose talents are essential to success. Boards, commissions, task forces, or advisory panels: These and similar devices help the President take the nation's pulse, and then prescribe necessary remedies.

The Presidency must be a distribution point for the new forces of constructive change—whatever their origins or specific areas of interest. And he must take special pains to relate these forces constructively to the more established institutions of government, particularly the Congress.

Whoever our next President may be, he will soon realize the crucial importance of his dealing effectively with the Congress. These are not the times for stalemate between the White House and Capitol Hill.

Third. The President must encourage the new spirit of localism already at work in this country . . . combined with a new openness of government to the concerns of the people.

The paradox of the contemporary Presidency is precisely this need to build local initiative and responsibility through the creative and judicious use of national power.

We know that federal funds must be used increasingly to stimulate state, local and private energies to develop new and indigenous responses to our unsolved domestic issues.

We know, too, that local, state and federal structures for administering programs of human development must be reordered and simplified.

Fourth. A National Domestic Policy Council should be established to provide the same comprehensive, systematic and reliable analyses of domestic problems which the National Security Council and its staff produce on foreign policy and national defense issues.

The National Domestic Policy Council would include the heads of Cabinet and other agencies dealing primarily with domestic concerns.

The Vice President might be designated to act for the President in chairing the National Domestic Policy Council.

The establishment of such a Council would expand in a real way the President's capacity to foresee and deal rationally with the crush of domestic problems . . . to sharpen priorities and identify the full implications of alternative domestic policy decisions . . . to determine how federal programs interrelate, support, or diminish the effectiveness of other programs . . . to develop a system of *Social Indicators* leading annually to a President's *Social Report*, such as today we have a system of Economic Indicators leading to an Economic Report.

The establishment of a National Domestic Policy Council is centrally important to the idea of an Open Presidency.

Today there is an almost hopeless cobweb of relationships that have developed between some ten or a dozen federal agencies, on the one hand, and 50 states, thousands of cities, and tens of thousands of private organizations, on the other.

There won't be effective federal-state-local relationships until there is a fuller integration of federal domestic activities.

There won't be an effective mobilization of private resources for government as long as so many different federal agencies are making separate demands on those resources.

Conversely, once there is this integration and coordination of federal domestic agencies, there can be an effective demand on state and local governments to take those administrative actions at *their* end which permit coordination of the total government effort.

John F. Kennedy said: "The history of this nation . . . has been written largely in terms of the different views our Presidents have had of the Presidency itself."

The proposals I have made today bear upon the Presidency in the same way that the restless mood of social change bears upon the entire nation.

For a nation in search of an Open Society, the Chief Executive must be committed to an Open Presidency.

In an Open Presidency, one question is paramount: Do existing institutions or traditions help the individual lead to a freer and more meaningful life?

If they do not, they must be changed.

The Open Presidency demands the exposure of ideas—*all* ideas which relate to the fundamental workings of our society . . . exposed to the maximum number of people.

The Open Presidency means broader responsibilities upon every American . . . and the broadest demands of morality upon those chosen to lead.

The American Presidency is the prize possession of all the people.

And the Open Presidency is a ceaseless reminder of their domain.

KIWANIS INTERNATIONAL CONVENTION

Mr. BYRD of West Virginia. Mr. President, on June 30, 1968, it was my pleasure to address the 53d annual convention of Kiwanis International at Maple Leaf Gardens, in Toronto, Ontario.

The occasion provided me with an opportunity not only to meet with Kiwanians from West Virginia and other States and countries, but also to experience the warm hospitality and friendship of citizens of the host country. The Kiwanis convention was an object lesson in international cooperation and respect.

Kiwanis International, established in 1915 in Detroit and extended into Canada a year later, has a remarkable record of service to youth, community, and Nation. Its programs of community service include activities in agriculture and conservation, international relations, public and business affairs, support of churches in their spiritual aims, vocational guidance, and a variety of projects to assist boys and girls in personal development and to make them better citizens.

At last year's international convention, delegates adopted a resolution on "Respect for Law and Order" which has resulted in hundred of community action programs throughout the United States and Canada. In cooperation with the National Council on Crime and Delinquency, Kiwanis had by the end of 1967 distributed more than 4½ million copies of "You and the Law" to young people through schools, local police departments, juvenile courts and homes, church groups, and social service agencies. It is a most commendable undertaking.

West Virginia is particularly proud of Dr. James M. Moler, who, as president of Kiwanis International was chairman of the program in which I participated. A resident of Charles Town, Dr. Moler is a West Virginia school administrator and banker who, as a Kiwanian for 28 years, has devoted considerable time and effort in behalf of the young people in West Virginia and elsewhere. Like her husband, Mrs. Katherine Moler has long been active with 4-H groups and has a Sunday school class in addition to teaching in the primary grades and assisting student teachers.

Through the courtesy and kind guidance of Hon. E. A. Horton, mayor of the Borough of Etobicoke, I was able to see a large part of the beautiful Toronto area and to meet many residents and visitors as well as to participate in the program at Maple Leaf Gardens. To all who went to the convention, the stay in Toronto had to be most enjoyable and memorable because Kiwanians—dedicated to the work of God and service to their fellow men—are so determined and enthusiastic in the pursuit of their purposes, and because citizens of the Dominion are such affable and gracious friends.

SALE OF TIMBER FROM NATIONAL FORESTS FOR EXPORT

Mr. MORSE. Mr. President, at the conclusion of my remarks I intend to place in the RECORD the text of an undated opinion to the Secretary of Agriculture from the General Counsel of that Department, transmitted to me July 15, on a subject of major importance to the Pacific Northwest. The opinion is entitled "Reply to the Questions Submitted by Senator MORSE of Oregon Relative to the Secretary's Authority to Sell Timber From National Forests for Export."

I ask unanimous consent that my letter of May 7 to Secretary Freeman and the memorandum subsequently prepared by his General Counsel be printed at the conclusion of these remarks.

I am sure most Senators know that the export of logs to Japan from the national forests and BLM lands in Oregon and our neighboring State, Washington, had by last year reached astonishing heights. Last fall, I began urging the Secretary of Agriculture to take some effective action to halt this skyrocketing export volume of round logs, and thus restore some semblance of order to the demand for and the swiftly rising price of this stumpage, so vitally needed by most of the forest products producers in Oregon. In order to present clearly the nature and impact of this problem, I called for hearings before the Subcommittee on Retailing, Distribution, and Marketing Practices of the Select Committee on Small Business to get at the facts and to find out why, if they were as represented to me, the Secretary was not doing something about it, as I had been urging.

An order was issued April 17, limiting for 1 year exports from public lands in western Oregon and Washington. Now allegations are being made that neighboring areas and States are also being affected by export activity.

The opinion I am about to place in the RECORD, Mr. President, was written very recently and, as its title indicates, deals with questions I had raised in those hearings back in January concerning the statutory authority of the Secretary to act, or refuse to act, in forbidding the export of logs from my State when he had long ago forbidden the export of logs from Alaska.

I will not occupy the time of the Senate this afternoon by summarizing the opinion, but I may say that it has vindicated my judgment that it is the act of April 12, 1926, which governs log exports from the national forests in Alaska and which governs also the export of logs from the national forests in all other States, including my State of Oregon. However, in an attempt to justify an export embargo by the Secretary of logs from Alaska for these last 20 years or more, though no such action protects our industries in the whole State of Oregon, the opinion says that that Alaskan log regulation issued 20 years or more ago, constitutes a "continuing administrative judgment" that there has been and is no surplus of logs in Alaska but there is, presumably, even today, a surplus elsewhere, except as found in the order of April 17. I will leave it to my distinguished lawyer friends in the Senate to enlighten me on the legal concept which supports a continuing administrative judgment, over a period of 20 years, that logs have been continuously in surplus in every other State than Alaska. Upon what evidence or facts that "judgment" is based is completely unknown to me and to the industry.

Since many months usually elapse between the sale of timber by the Forest Service and the harvesting of the timber, this "protection" of the April order is more illusory than real, at least for 1968, and it is inadequate in that it does not cover the whole of the States whose mills and people are being so victimized. Had the Secretary acted in accordance with the mandate of the Congress, as his General Counsel now seems to advise him he should do, these evils would have been avoided.

Thus, on Friday my subcommittee will again hold hearings on the Japanese log export problem, this time because the effect of the secretarial action of last April is now reported to be to drive the Japanese log buyers eastward and southward into California, the eastern part of my State and of Washington into Idaho, and now into western Montana. The effects of this spreading export activity are already being felt, and I therefore, urge the Secretary to comply with the law as Congress has written it, and to act immediately before irreparable harm is done elsewhere in our entire timber-dependent western region.

I think Senators should be aware that in the Secretary's view the national forests are not administered in the Department of Agriculture alone, through the Forest Service, but in the matter of sale destination of logs from national forest lands that administration is now being shared with the Departments of State, Treasury, Commerce, and Labor, the Bureau of the Budget, and the Executive Office of the President. In my opinion the management of the national forests has been vested exclusively in the Forest Service, in the Department of Agriculture, and nowhere else. If Congress intended it to be shared with other agencies it did not lack the means to say so; but until it does, I intend to stand by my guns and not to retreat from the position that it is the Forest Service and the Secretary of Agriculture which are charged with the duties here involved, and in accord with the statutes enacted by Congress.

I also happen to believe that this is the first obligation of the Secretary, acting through the Forest Service, to manage the national forests for the benefit of the whole people, who are, after all, the owners of these forests, and not for the benefit of the Japanese people or the people of any other nation than ours. I have no quarrel with the Japanese or any other people, but my obligations are to the people of my State and my country, and I intend to fulfill them.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Oregon?

There being no objection, the items were ordered to be printed in the RECORD, as follows:

MAY 7, 1968.

Hon. ORVILLE L. FREEMAN,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I am grateful to you and your Department for your action of April 16, 1968, in taking some partial or interim steps to curtail the hitherto unrestricted export of logs from national forest lands in

the Pacific Northwest to foreign shores, particularly Japan. It is my understanding, however, that your order of April 16, 1968, is based primarily upon your Department's interpretation of a Congressional Act of 1897, 16 U.S.C., Section 476. I am concerned that your legal counsel apparently did not advise that the Congressional Act of April 12, 1926, 16 U.S.C., Section 616, would have provided a sounder and more consistent legal basis for any order restricting the exportation of logs from the national forests.

I expressed my concern, in hearings before the Subcommittee of the Senate Small Business Committee, that under the 1897 and 1926 statutes, Alaska was being treated one way by the Forest Service, but Washington and Oregon were receiving different treatment. I asked Mr. Cliff and Mr. Greeley, the Department's witnesses appearing before us, to explain why, under these same statutes I have mentioned, the export of logs from national forest lands in Alaska was prohibited unless the Secretary finds logs are in surplus, but in the States of Oregon and Washington, the export of logs from national forest lands was possible unless the Secretary finds that local need restricted it.

During Mr. Cliff's testimony, he put in the record an opinion of the Solicitor of your Department, entitled Opinion of the General Counsel No. 126, dated December 31, 1964, in support of the proposition that under the 1926 Act, the Secretary had no power to restrict logs from exports from national forest lands other than Alaska except upon a finding by the Secretary that such export would be harmful to the local economy in its use of such logs for purely domestic purposes, such as fenceposts, firewood, and other equally noncommercial uses.

I have lately become aware that the opinion Mr. Cliff placed in the record on this point, and on which he and the Department have relied in the action you have just taken, is apparently inconsistent with an earlier opinion, rendered in 1950, by the legal staff of your Department, concerning the same Act of the Congress of 1926. That opinion was written in connection with hearings on newsprint monopoly conducted by a Subcommittee of the House, chaired by Mr. Celler of New York.

It is my judgment that the opinion of 1950 more correctly states the law governing your Department respecting the export of logs from national forest lands wherever located than does the 1964 opinion.

I think the 1950 opinion of your Department's General Counsel justifying restriction of the exportation of logs from Alaska should be recognized as being equally applicable to the restricting of the exporting of logs from the national forests in Oregon and Washington or anywhere else.

If I am correct in this conclusion, as I believe I am, there is still the matter of conflict between these two opinions, which should now be resolved by the General Counsel of your Department.

Therefore, I would appreciate it very much if you would request your General Counsel to prepare a memorandum of opinion on the points which I raise in this letter so that I can sit down with you and your General Counsel in a conference at an early date and see if we can reach a common understanding as to the application of the 1926 law to this log export problem.

As a help to your General Counsel in the preparation of his memorandum, I wish to repeat that I am concerned about the following points:

Could the Congress have intended in the statutes it passed that two opposite concepts or purposes for protection of national forest timber should exist under the law; namely, one in Alaska and another in Oregon and Washington or elsewhere?

Was it the intent of Congress in Alaska, for example, with its relatively undeveloped timber industry, to provide a complete protection from the exporting of logs, except when the Secretary found that the logs were in surplus, but to provide no protection against the exportation of logs in the Pacific Northwest with its great reliance on national forest timber until the Secretary took action to prevent it?

It is my interpretation of the law on the books that it was the intent of Congress to give to the Secretary of Agriculture the same power and duty to apply the same standards over all national forests, whether they are in Alaska, Oregon, Washington or elsewhere, in respect to restricting the exportation of logs.

To me, the law is clear that it shows Congressional intent to limit the exportation of logs everywhere unless the Secretary finds that logs are in surplus.

In recent conferences with lumbermen in my State, I find that they are confused and concerned about what they consider to be conflicts in interpretation of the legislative intent of the 1926 Act. Some of them argue that your order of April 16, 1968, reflects that conflict, and unless it is clarified, provides the industry with only temporary respite from log exportation in a few of the national forests.

Their legal counsel point out that the problem lies in the different constructions your legal department has given to the 1926 statute, as set forth in the General Counsel's memorandum opinion of 1950, in contrast with the General Counsel's memorandum opinion of 1964.

My concern at this time is to obtain from your legal department the clarification of its interpretation of the meaning of the 1926 statute in relationship to the Department's legal opinions of 1950 and 1964.

I think it is very important that a common understanding be reached, if possible, between the Department and the industry over the questions which I have raised in this letter. I think it is highly desirable that after your General Counsel has had an opportunity to prepare a memorandum on the points I have raised, I sit down with you and your General Counsel for a conference about these points.

With kindest personal regards,

Cordially,

WAYNE MORSE.

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C.

Subject: Reply to the questions submitted by Senator MORSE of Oregon relative to the Secretary's authority to sell timber—From the national forests—For export.

To: The Secretary.

A "determination" was signed by the Secretary on April 16, 1968, concerning the primary processing of timber from the national forests of the Pacific Northwest. The Secretary's "determination" is the subject of a letter dated May 7 from Senator Morse of Oregon addressed to the Secretary. It is said by Senator Morse that the Secretary's "determination" is based—according to Senator Morse's understanding—on the Act of June 4, 1897 (16 U.S.C. § 476), but it is suggested by Senator Morse that the Act of April 12, 1926 (16 U.S.C. § 616), "would have provided a sounder and more consistent legal basis for any order restricting the exportation of logs from the national forests." Senator Morse refers in his letter to the Department's action in providing that "[t]imber cut from the national forests in Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent" of the administrative agency (36 CFR § 221.3(c)). The opinion is expressed by Senator Morse that the Department has not been consistent in its interpretation and application of the relevant Congressional enactments.

It is necessary, in view of Senator Morse's letter, (1) refer briefly to the Secretary's "determination" of April 16, 1968, concerning the primary processing of timber from the national forests of the Pacific Northwest, (2) to review briefly our Department's authority, under the relevant Congressional measures, to sell timber from the national forests, (3) to consider briefly our Department's interpretations and applications of those statutory provisions, and (4) to respond appropriately to the questions submitted by Senator Morse for discussion at a conference between him and the Secretary.

First. "One of the purposes"—as recited in the "determination"—"for which the National Forests in the Western States were established is 'to furnish a continuous supply of timber for the use and necessities of citizens of the United States' (30 Stat. 34, 35, 36, as amended; 16 U.S.C. 475)." In order to fulfill that purpose it is necessary, according to the "determination," that "there be a viable, domestic wood-using industry," and this industry "should comprise an array of wood manufacturing plants ranging in size from small operations to large integrated ones. * * * To maintain its viability, it is essential for the domestic wood-using industry to maintain capability for primary manufacturing." The Secretary's "determination" states, *inter alia*, that:

"A market situation has developed in the Pacific Northwest under which an increasing proportion of the National Forest timber is becoming unavailable for domestic primary manufacture. If there is no change, this situation threatens the continued existence of numerous wood-processing plants that are wholly or partially dependent upon manufacturing logs originating on National Forest lands. The industry is capable of processing most of the sustained yield cut of the National Forests into products needed by citizens of the United States, and it is contrary to the public interest for the existence of this industry to be eroded away through loss of available raw material.

"Consequently, I hereby determine that there now exists in the Pacific Northwest a situation requiring immediate action on my part. Accordingly, until July 1, 1969, timber offerings in western Washington and western Oregon, as well as in selected areas east of the cascade Divide which are closely related to the western areas, shall specify, with appropriate exceptions, that such timber be given primary manufacture in the United States.

"I am instructing the Chief of the Forest Service to take the steps necessary to implement this determination. These instructions are to provide that timber cut from the National Forests in the affected area receive primary manufacture in the United States, except for Port-Orford cedar and certain other exceptions noted in my instructions, and except for a general volume that may be available for other disposition at the discretion of the timber purchaser.

"I hereby determine that the general volume to be available for other disposition from the National Forest land in the affected area is to be at the annual rate of 290 million board feet, subject to review prior to July 1, 1969.

"Instructions are to be promulgated by the Chief of the Forest Service to provide for periodic redetermination of the necessity to continue the program, and a control system which will assure that an adequate proportion of the annual timber offerings will be for domestic primary manufacturing."

Second. The Congress has provided that a basic purpose for establishing a national forest is "to furnish a continuous supply of timber for the use and necessities of the citizens of the United States * * *" (Act of June 4, 1897, 30 Stat 34, as amended, 16 U.S.C. § 475). The Secretary is authorized, in certain circumstances, to sell timber "to be used in the State or Territory in which such

timber reservation may be situated * * * but not for export therefrom" (Act of June 4, 1897, 30 Stat. 35, 16 U.S.C. § 476). There are, however, two sections in Title 16, United States Code, which provide for the sale of timber for exportation from the State or Territory in which the timber is grown. Those statutory provisions are in 16 U.S.C. §§ 491 and 616. All three of the relevant statutory provisions are graphically shown as follows:

The Act of June 4, 1897, as amended, provides that: "For the purpose of preserving the living and growing timber and promoting the younger growth on national forests, the Secretary of Agriculture * * * may cause to be designated and appraised so much of the dead, matured, and large growth of trees * * * as may be compatible with the utilization of the forests thereon, and may sell the same * * * in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated * * * but not for export therefrom." 30 Stat. 11, 35, as amended, 16 U.S.C. § 476.

The Act of April 12, 1926, provides that: "Timber lawfully cut on any national forest, or on the public lands in Alaska, may be exported from the State or Territory where grown if, in the judgment of the Secretary of the Department administering the national forest, or the public lands in Alaska, the supply of timber for local use will not be endangered thereby, and the respective Secretaries concerned are authorized to issue rules and regulations to carry out the purposes of this section." 44 Stat. 242, 16 U.S.C. § 616.

The Appropriation Act of May 11, 1926, provides that: "[T]he Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the national forests to be exported from the State or Territory in which said forests are respectively situated." 44 Stat. 499, 512, 16 U.S.C. § 491.

The provisions in 16 U.S.C. § 491, *supra*, were a part of the Act of May 11, 1926, "making appropriations for the Department of Agirculture for the fiscal year ending June 30, 1927 * * *." 44 Stat. 499, 512. The annual appropriations act from 1917 to 1926 contained the language *ipsissimis verbis* which is in 16 U.S.C. § 491, and the annual appropriation acts from 1905 to 1917 contained subject to an exception the language which is in 16 U.S.C. § 491.[1] Congress recognized, therefore, over a long period of time that in an appropriation act this authorization to the Secretary expired at the end of the year for which the appropriation was made.[2] In view of this weighty and compelling circumstance, it seems that the authorization to the Secretary—relative to permitting, in his discretion, "timber and other forest products cut or removed from the national forests to be exported from the State or Territory in which said forests are respectively situated"—in the Act of May 11, 1926, making appropriations for the Department of Agriculture, expired at the end of that fiscal period.[3] Here, as in *Stephen* v. *United States*, 319 U.S. 423, 426, the fact that the language in the Act of May 11, 1926, making appropriations for the Department, has "lingered on in the successive editions of the United States Code is immaterial" since the Code merely "establishes 'prima facie' the laws of the United States," and "cannot prevail over the Statutes at Large."[4]

The Act of April 12, 1926 (44 Stat. 242, 16 U.S.C. § 616), *supra*, constitutes "permanent legislation" in lieu of the authorization in annual appropriation acts. It was explained in the consideration of this measure in Congress that "the purpose of this bill [*i.e.*, H.R. 6261], so far as timber from national forests is concerned, is simply to give a *permanent* legal standing to a practice that has been carried on for a great many years through legislation on [sic] the appropriation bills and therefore subject to points of order [italic supplied]." 67 Cong. Rec. 4013. "In 1897 the law [*i.e.*, the Act of June 4, 1897, 16 U.S.C. § 476] provided that timber might be cut on national forests for use and sale within the State or Territory in which the national forests exist; but, of course, * * * you know that no lumber concern * * * can carry on successfully and supply only the local trade in the one State in which a national forest exists. Therefore in the appropriation bills for a great many years there was legislation which did allow the exporting of timber to outside of the State in which the timber was cut. In 1924, however, a point of order was made on that provision, and sustained. This puts lumber concerns, dealing legitimately in national forest timber, in a position of uncertainty, and from a business angle it is desirable that there be passed a *permanent* law which will allow necessary export business to continue [italic supplied]." *Ibid.*

Additional legislative history relative to the Act of April 12, 1926 (44 Stat. 242, 16 U.S.C. § 616), underscores the fact that Congress intended for it to be permanent legislation in lieu of the Secretary's authority under annual appropriation acts. As shown in House Rept. No. 208, 69th Cong., 1st Sess., with respect to H.R. 6261—subsequently enacted as the Act of April 12, 1926—it was made clear by the Secretary of Agriculture in his letter of January 20, 1926, to the Chairman of the House Committee on the Public Lands that our Department "believes that permanent legislation * * * is very desirable and necessary as a safeguard to the business enterprises based on the logging of national-forest timber," and that this Department favors the enactment of H.R. 6261 which would constitute "permanent legislation" in lieu of the authority previously set forth in annual appropriation acts. In the Secretary's report of January 20, 1926, to the Chairman of the Senate Committee on Public Lands and Surveys it is explained that H.R. 6261, if enacted, would constitute "permanent legislation" and "would make unnecessary the provision carried in the annual appropriation bills for the work of this Department during the last 20 years * * *." Sen. Rept. No. 419, 49th Cong., 1st Sess. The Secretary's letter also explained the unsatisfactory situation which prevails under the authorization in an annual appropriation act, and the belief is expressed that "permanent legislation" should be enacted as provided in H.R. 6261. *Ibid.*

The "purpose of Congress is a dominant factor in determining [statutory] meaning,"[5] and it is plainly the Congressional purpose for the Act of April 12, 1926 (16 U.S.C. § 616), to constitute "permanent legislation" in lieu of the authorization to the Secretary in annual appropriation acts. The intention of Congress is the primary consideration in statutory interpretation.[6] The Supreme Court has said that a "statute cannot be divorced from the circumstances existing at the time it was passed, and from the evil which Congress sought to correct and prevent."[7] The relevant circumstances existing at the time of the enactment of the Act of April 12, 1926, and the situation to be corrected thereby are plainly shown, and in all respects support the view that the Act of April 12, 1926, is permanent legislation which is designed by Congress to make unnecessary the authorization in the annual appropriation acts.[8]

In view of the foregoing, the relevant statutory provisions are the Act of June 4, 1897, as amended (16 U.S.C. § 476), and the Act of April 12, 1926 (16 U.S.C. § 616). The former statutory measure provides that, in certain circumstances, the Secretary may sell timber—on national forests—"but not for export." The latter legislative enactment provides that timber "lawfully cut on any national forest, or on the public lands in Alaska, may be exported from the State or Territory where grown if, in the judgment of the Secretary, * * * the supply of timber for local use will not be endangered thereby * * *."

---

[1] See, *e.g.*, the Act of March 4, 1917, 39 Stat. 1134, 1145; the Act of May 11, 1922, 42 Stat. 507, 519; the Act of February 26, 1923, 42 Stat. 1289, 1302; the Act of June 5, 1924, 43 Stat. 432, 443–444; the Act of February 10, 1925, 43 Stat. 822, 833–834. The language in the Act of March 3, 1905, 33 Stat. 861, 873, is as follows: "* * * the Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the forest reserves of the United States, except the Black Hills Forest Reserve in South Dakota and the Forest Reserves in Idaho, to be exported from the State, Territory, or the District of Alaska, in which the reserves are respectively situated." In the Act of May 23, 1908, 35 Stat. 251, 259, the "exception" was limited to the Black Hills National Forest in South Dakota. See also, the Act of March 4, 1909, 35 Stat. 1039, 1047–1048.

[2] "[S]ubsequent legislation may be considered to assist in the interpretation of prior legislation upon the same subject." *Tiger* v. *Western Investment Co.*, 221 U.S. 286, 309; *Great Northern Ry. Co.* v. *United States*, 315 U.S. 262, 277. See also, *Stockdale* v. *Insurance Companies*, 20 Wall. 323, 331–332. Here, as in *Alexander* v. *Alexandria*, 5 Cranch 1, 7-8, "a subsequent act [of the legislature] on the same subject affords complete demonstration of the legislative sense of its own [prior] language," and "is a direction to courts in expounding the provisions of the law."

[3] Congress can amend substantive legislation by provisions in an appropriation act (*United States* v. *Dickerson*, 310 U.S. 554, 555; *National Labor Rel. Bd.* v. *Thompson Products*, 141 F. 2d 794, 797 (C.A. 9)), but an intention by Congress to alter basic legislation by a provision in an appropriation act is not to be presumed "unless it is expressed in the most clear and positive terms, and where the language admits of no other reasonable interpretation" (*Minis* v. *United States*, 15 Pet. 423, 445; *United States* v. *Vulte*, 233 U.S. 509, 514–515). See also, *Cella* v. *United States*, 208 F. 2d 783, 790 (C.A. 7), certiorari denied, 347 U.S. 1016.

[4] See also, 1 U.S.C. § 204(a); *United States* v. *Weldon*, 377 U.S. 95, 98, fn. 4; *Royer's, Inc.* v. *United States*, 265 F. 2d 615, 618 (C.A. 3); *Murrell* v. *Western Union Tel. Co.*, 160 F. 2d 787, 788 (C.A. 5).

[5] *United States* v. *Congress of Ind. Org.*, 335 U.S. 106, 112–113.

[6] See, *e.g.*, *United States* v. *Hutcheson*, 312 U.S. 219, 235.

[7] *United States* v. *Champlin Rfg. Co.*, 341 U.S. 290, 297.

[8] To be sure, the Act of May 11, 1926 (44 Stat. 512), making appropriations for the Department of Agriculture, contains the authorization which appeared in the previous appropriation acts. But, at most, it was effective for only that fiscal period. The Act of May 11, 1926, did not repeal the permanent legislation of April 12, 1926. Repeals by implication are not favored (*Silver* v. *New York Stock Exchange*, 373 U.S. 341, 357), and for a repeal to be implied there "must be 'a positive repugnancy between the provisions of the new law, and those of the old; and even then the old law is repealed by implication only *pro tanto* to the extent of the repugnancy.'" *Wood* v. *United States*, 16 Pet. 342, 362–363; *United States* v. *Borden Co.*, 308 U.S. 188, 198–199. See also, *Posados* v. *National City Bank*, 296 U.S. 497, 504; *United States* v. *Burroughs*, 289 U.S. 159, 164. In any event, the permanent legislation of April 12, 1926, sets forth specifically the criterion to govern whether timber may be exported from the State or Territory where grown, and the Supreme Court has held that a specific legislative measure prevails over the general "without regard to priority of enactment" (*Bulova Watch Co.* v. *United States*, 365 U.S. 753, 758).

The provisions in 16 U.S.C. § 476 apply with respect to "national forests" wherever situated. The statute does not differentiate between a national forest in one State and a national forest in another State. Congress has provided in this statutory enactment that "[f]or the purpose of preserving the living and growing timber and promoting the younger growth on national forests, the Secretary of Agriculture, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon such national forests as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom * * *." 16 U.S.C. § 476. The terms of the statute are for application, from time to time, by the Secretary to the variable circumstances with respect to the timber on the national forests.

The Act of April 12, 1926 (16 U.S.C. § 616), applies with respect to "any national forest" or "the public lands in Alaska." The statute does not differentiate, by its terms, between a national forest in one State and a national forest in another State. To be sure, the statute refers to the "public lands in Alaska," but the timber on the "public lands in Alaska" is subject to the same statutory terms as the timber on "any national forest." The statute provides that "[t]imber lawfully cut on any national forest, or on the public lands in Alaska, may be exported from the State or Territory where grown if, in the judgment of the Secretary of the department administering the national forests, or the public lands in Alaska, the supply of timber for local use will not be endangered thereby, and the respective Secretaries concerned are authorized to issue rules and regulations to carry out the purposes of this section." 16 U.S.C. § 616.[9] Timber may, in these circumstances, be exported from the State or Territory where grown "if, in the judgment of the Secretary * * *, the supply of timber for local use will not be endangered thereby * * *" (16 U.S.C. § 616). The word "if," in the statutory language, imports a condition or limitation.[10] Since the statutory terms are to be applied to the factual circumstances, from time to time, this is a familiar example of legislative delegation of authority to an administrative official. The statute plainly states the standard to govern the Secretary in the exercise of this authority.

Third. The Secretary's "determination" of April 16, 1968, is, of course, an interpretation and application of the statutory authority to sell timber on the national forests. The "determination" is, by its terms, limited to the area in which the factual circumstances make administrative action necessary in order to fulfill the statutory purpose, *viz.*, "to furnish a continuous supply of timber for the use and necessities of citizens of the United States" (16 U.S.C. § 475). The Secretary's "determination" relates only to timber in western Washington and western Oregon, as well as in selected areas east of the cascade Divide which are closely related to the western areas. This timber, according to the "determination," must "be given primary manufacture in the United States."

The authority to sell timber, under 16 U.S.C. § 476 or 16 U.S.C. § 616, is to be exercised within the metes and bounds of 16 U.S.C § 475 which provides that the "public lands" and "national forests" shall be administered in accordance with the following provisions: "No national forest shall be established except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and *to furnish a continuous supply of timber for the use and necessities of citizens of the United States* * * * [emphasis supplied]." The Chief of the Forest Service is authorized in the Secretary's "determination" to "take the steps necessary to implement this determination." The plan for requiring the domestic primary manufacturing of logs, pursuant to the "determination," defines the term "primary manufacture in the United States" as follows: (1) converting logs, bolts, or other roundwood to (a) cants or squares that are 8 inches or less in thickness, (b) smaller sawn products, (c) veneer, (d) pulp, or (e) chips; or (2) manufacturing a product for use without further processing, such as structural timbers, piling, or poles within the United States or for use elsewhere under written approval by the Forest Service. The Secretary's "determination" of April 16, 1968, is in accord with the rules and regulations [11] issued pursuant to 16 U.S.C. § 476. The rules and regulations provide that:

"When necessary to promote better utilization of national forest timber or to facilitate protection and management of the national forests, a management plan may include provisions for requirements of purchasers for processing the timber to at least a stated degree within the working circle, or within a stated area, and, when appropriate, by machinery of a stated type; and agreements for cutting in accordance with the plan may so require." 36 CFR § 221.3(b).

It was concluded in the opinion of this office (Op. Gen. Coun. No. 126) on December 31, 1964, that the Secretary has authority, under appropriate circumstances, to "require that timber cut and removed from the national forest be processed to at least some degree in a particular place or area, provided such requirement reasonably relates to the furtherance of the purposes for which the national forests were created and to the protection, management, and utilization of the timber thereon." The General Counsel concluded in his opinion of December 31, 1964, that "the Secretary has authority to require that national forest timber be processed in a stated area or to a stated degree therein," and that such administrative action is lawful if it is adequately supported by a proper administrative determination that the action is necessary and desirable to the protection, management, and utilization of the national forests and their resources.

In short, the Secretary's "determination" of April 16, 1968, is an exercise of his authority to sell timber, subject to certain primary manufacturing requirements, pursuant to 16 U.S.C. §§ 475, 476, and 616, and the rules and regulations in effect pursuant to 16 U.S.C. § 476. Since the Secretary's "determination" of April 16, 1968, permits the exportation of timber, from the State where grown, for primary manufacture elsewhere in the United States and also permits the exportation of the timber after primary manufacture,[12] there is manifestly implicit in the Secretary's action the finding that the exportation of timber, as thus described, will not endanger the supply of timber for local use. Hence, in this respect, the "determination" has its foundation in 16 U.S.C. § 616.

There remains for consideration the regulation in 36 CFR § 221.3(c) which provides that:

"Unless prohibited by specific instructions from the Secretary of Agriculture, timber lawfully cut on any national forest, except the national forests in Alaska, may be exported from the State where grown. *Timber cut from the national forests in Alaska may not be exported from Alaska in the form of logs, cordwood, bolts, or other similar products necessitating primary manufacture elsewhere without prior consent of the Regional Forester when the timber sale project involved is within his authorization to sell or the Chief, Forest Service, when a larger timber sale project is involved.* In determining whether consent will be given to the export of such products consideration will be given, among other things, to whether such export will (1) permit a more complete utilization of material on areas being logged primarily for products for local manufacture, (2) prevent loss or serious deterioration of logs unsalable locally because of an unforeseen loss of market, (3) permit the salvage of timber damaged by wind, insects or fire, (4) bring into use a minor species of little importance to local industrial development, (5) provide material required to meet national emergencies or to meet urgent and unusual needs of the Nation [emphasis supplied]."

The regulation set forth in 36 CFR § 221.3(c), relative to the exportation of timber from Alaska and other States, shows at the conclusion thereof "44 Stat. 242; 16 U.S.C. 66," but obviously the citation should be "44 Stat. 242; 16 U.S.C. 616," and this correct citation is given at the end of this section in the Federal Register of December 14, 1948 (13 F.R. 7711). This regulation constitutes a continuing administrative judgment—in the absence of instructions by the Secretary prohibiting export—that the export of timber from the State or Territory where grown will not endanger the supply for local use. Unlimited exports of timber from Alaska which have undergone primary manufacture are permitted. It would be inconsistent with 16 U.S.C. § 616 to permit timber harvested from a national forest in Alaska—whether or not it has undergone primary manufacture—to be exported from Alaska if the exportation would endanger the supply for local use. The regulation as to timber cut from the national forests in Alaska may be justified—in my opinion—on the same statutory considerations as support the Secretary's "determination" of April 16, 1968, concerning the primary processing of timber from the national forests of the Pacific Northwest.

The statement prepared by the Forest Service with respect to the legal basis for the sale of timber in the national forests in Alaska is set forth as an attachment to the Secretary's letter of July 24, 1950, to the Chairman of the House Judiciary Committee. The legal basis there given states, *inter alia*, that the "prohibition against exports of national forest timber outside of the State or Territory in which the timber reservation is situated as provided in the Act of June 4, 1897 [*i.e.*, 16 U.S.C. § 476], therefore still remains in effect unless the Secretary of Agriculture uses the discretion granted him under 16 United States Code 491 and 616 to permit such export." The

[9] The admission of Alaska into the Union was accomplished on January 3, 1959, upon the issuance of Proclamation No. 3269, 24 F.R. 81, 73 Stat. c16, as required by §§ 1 and 8(c) of Public Law 85–508, 72 Stat. 339.

[10] See, e.g., *Webster's Third New International Dictionary* (1964 ed.), p. 1124; *Stevens* v. *Tillamook County*, 128 Oregon 339, 273 P. 716, 718; *Baum* v. *Rainbow Mining, Milling & Smelting Co.*, 42 Oregon 453, 71 P. 538, 541.

[11] Here, as in *United States* v. *Grimaud*, 220 U.S. 506, 516, a case involving the Forest Service, "[i]n the nature of things it was impracticable for Congress to provide general regulations for these various and varying details of management." Hence, the administrative agency was authorized by Congress to issue rules and regulations to effectuate the statutory goal.

[12] The "determination" contains exceptions permitting the export of certain quantities of timber and certain species of timber without primary manufacture.

rationale of the statement, as we understand it, is that the prohibition in the Act of June 4, 1897, against exports of national forest timber outside the State or Territory in which the timber was grown remains in effect unless the Secretary of Agriculture uses the discretion granted him under the appropriation act provision of May 11, 1926, and the Act of April 12, 1926, to permit such exports, and that such discretion has been used to permit the export of timber from Alaska that has undergone primary manufacture but not to permit the export of timber requiring primary manufacture outside of Alaska and that, consequently, the export of timber requiring primary manufacture is forbidden by the Act of June 4, 1897.

We do not concur in that rationale. As we have previously explained in this memorandum, we believe that the language in the annual appropriation act of May 11, 1926, is no longer in effect. Moreover, the Act of April 12, 1926 (16 U.S.C. § 616), does not confer upon the Secretary the same discretionary right to permit timber and other forest products to be exported as was conferred upon him by the provision contained in the annual appropriation acts for 1927 and prior fiscal years. The Act of April 12, 1926 (16 U.S.C. § 616), provides an exception to the prohibition of exports in the Act of June 4, 1897 (16 U.S.C. § 476), if the supply of timber for local use will not be endangered. While such Act vests in the Secretary the authority to determine whether the exportation of timber will endanger the supply for local use, we believe that the statute contemplates that the Secretary will make such determination where warranted by the facts and circumstances. The fact, however, that the Secretary has determined that the export of timber harvested from any national forest will not endanger the supply for local use and is thereby relieved from the prohibition in the Act of June 4, 1897 (16 U.S.C. § 476), against selling timber for export, in our view does not deprive him of the authority to require that timber be given primary manufacture before being exported from Alaska where he determines such requirement is necessary to effectuate a statutory purpose for which the national forests have been established.

Fourth. Senator Morse submitted the following questions in his letter of May 7:

1. "Could the Congress have intended in the statutes it passed that two opposite concepts or purposes for protection of national forest timber should exist under the law; namely, one in Alaska and another in Oregon and Washington or elsewhere?"

2. "Was it the intent of Congress in Alaska, for example, with its relatively undeveloped timber industry, to provide a complete protection from the exporting of logs, except when the Secretary found that the logs were in surplus, but to provide no protection against the exportation of logs in the Pacific Northwest with its great reliance on national forest timber until the Secretary took action to prevent it?"

In answer to the questions by Senator Morse, it is our opinion that the statutory provisions in 16 U.S.C. §§ 475, 476, and 616 apply uniformly without regard to whether the national forest is in one State or in another. The statutory criteria for the governance of the Secretary apply alike everywhere. As we have explained in this memorandum, the relevant law is the same for timber cut from a national forest in Oregon as it is for timber cut from a forest in Alaska or some other State. The facts may be variable, but the law is uniform.

EDWARD M. SHULMAN,
General Counsel.

DISTRICT OF COLUMBIA AIR POLLUTION ACT

Mr. TYDINGS. Mr. President, in March 1967, the Subcommittee on Business and Commerce, of which I am chairman, and the Subcommittee on Public Health, Education, Welfare, and Safety, of which the Senator from Oregon [Mr. MORSE] is chairman, both being subcommittees of the Committee on the District of Columbia, held joint hearings on the air pollution problems of the National Capital area. The hearings brought into clear public attention the fact that this area is suffering from a severe air pollution problem. There was conclusive testimony, based on scientific measurements of air pollution in this area, that in recent years pollution has often reached and even exceeded levels known to produce adverse effects on human health. Photochemical smog from automobile exhausts is a hazardous problem in this area, in view of the fact that the District of Columbia, with 4,000 automobiles per square mile, has the highest concentration of automobiles of any city in the Nation. Sulfur-oxide pollution, from low-grade coal and fuel oil, is a grave health hazard in the area. We learned that Washington air has a much higher sulfur dioxide content than the air to either Los Angeles or Detroit—two cities generally considered to have severe air pollution problems.

AMERICAN POLICY TOWARD DICTATORSHIP IN GREECE

Mr. CLARK. Mr. President, a recent issue of the Atlantic Monthly contains an article entitled "Democracy on Ice: A Study of American Policy Toward Dictatorship in Greece," written by Elizabeth Drew, which I believe will be of considerable interest to Senators.

The article makes the point that in recent months our Government has extended aid and comfort to a military junta that has suspended constitutional government and shows little desire for reviving it. Mrs. Drew states that the U.S. Government has continued to arm the juanta with all but the heaviest military equipment, and has been moving toward a resumption of more military aid and normal relations with a regime that has suspended constitutional government and is showing no haste in putting it back, jailed thousands and tortured some, and even purged the military force which the United States had build up at great expense.

Mrs. Drew's report on what actually happened in Greece and in Washington before, during, and after the colonels' coup is as deeply disturbing as it is fascinating. Particularly troubling is the evidence of the enormous influence which various middle-level bureaucrats have had in setting this country on what I believe to be a perilous course in its relations with Greece.

It should be obvious to anyone who reads this article that our policy—or really, our lack of a policy—toward Greece has been seriously awry in recent years. It is now in danger of going further awry, if the middle-level bureaucrats who are pushing for a full-scale resumption of military aid to the junta succeed in their aim. Such a step, in my judgment and in the judgment of other Members of Congress, would, I am sure, hammer another nail in the coffin of democracy in Greece. That result would be contrary not only to our ideals but to our national interest as well.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEMOCRACY ON ICE: A STUDY OF AMERICAN POLICY TOWARD DICTATORSHIP IN GREECE

(By Elizabeth B. Drew)

(NOTE.—Since Britain's withdrawal after World War II, the United States has been self-appointed guarantor of democratic government and international security for Greece, but in recent months Washington has extended aid and comfort to a military junta that has suspended constitutional government and shows little desire for reviving it. How does such foreign policy get made? Is it consistent with the interests of the Greeks—or the Americans? The Atlantic's Washington editor gives some discomfiting answers in this deep analysis of the evolution of policy-making in the nation's capital.)

In March, 1947, President Truman sent to Congress a special message urging that the United States help Greece "to become a self-supporting and self-respecting democracy." The "Truman Doctrine" was followed by the Marshall Plan and another collective arrangement to secure Europe against Communism, the North Atlantic Treaty Organization, a partnership based on devotion to "the principles of democracy, individual liberty and the rule of law." Twenty years and one month after Mr. Truman's appeal for aid to Greece, a small group of colonels, using NATO arms and a NATO plan, overthrew the Greek parliamentary government. King Constantine protested to our ambassador that some "incredibly stupid, ultra-right-wing bastards" had "brought disaster to Greece." Our ambassador cabled Washington that it was "the rape of Greek democracy."

The U.S. government declined to denounce the coup, continued to arm the junta with all but the heaviest military equipment, and has been moving toward a resumption of more military aid and normal relations with a regime that has suspended constitutional government and is showing no haste in putting it back, jailed thousands and tortured some, and even purged the military force which the United States had built up at great expense. Leaving moral considerations aside, for morality is an elusive and perhaps even dangerous basis for foreign policy, it is worth examining our Greek policy in the terms in which the policy-makers defend it: that we have had no choice, that it is realistic, that it is in our interests, especially our interest in preserving NATO. It is also instructive to see how we got to this point.

An objective statement of the history of the U.S. involvement in Greece inescapably has a ring of liberal paranoia. It is simply a fact, however, that from the time that the United States replaced Great Britain as, in effect, Greece's protector after World War II, a highly visible and heavy U.S. presence—the embassy, the military, and the CIA—cast its lot with Greek royalist-rightist-military circles. We approved prime ministers, interfered in elections, and passed upon military promotions. The CIA considered Greece of spe-

cial importance for operations in the area, and in the post-war period it trained and controlled the Greek intelligence agency.

The palace and the military were the instruments for overcoming the Communist insurgency and general chaos that followed World War II. During the war, the resistance movement against the Nazi occupiers had been taken over by Communists; a full-scale civil war ensued after the invaders withdrew. An exhausted Great Britain was in no condition to restore order, so the United States, through the Truman Doctrine, moved to offset the real possibility of a Communist takeover. The royal family, returned to its unstable throne by a plebiscite after the war, was considered at the time, even by the substantial numbers of anti-royalists in Greece, as important for restoring unity. There was no center to speak of at that point. The palace secured its power through alliances with the military, the highly protected business oligarchy, and rightist politicians. It saw to it that no prime minister became too independent. The United States saw to it that whoever was prime minister viewed Greece's needs, particularly its need to arm for the cold war, as the United States did. The American ambassador hunted with the King; the embassy staff circulated with rightist politicians and businessmen; all were agreed that Greece must be protected from internal and external Communism; it all worked very well; it was all done in the name of democracy.

In the early 1960s, the growing centrist Center Union Party, headed by George Papandreou, who charged the Karamanlis government with protection of special interests and with failure to address Greece's deep economic and social problems, did increasingly well at the polls. In 1963, Karamanlis became too independent for the royal family's tastes, and he was eased out of office. Papandreou defeated Karamanlis in a 1963 election, but with an insufficient plurality to form a government. He refused a coalition with the Communist-front party, and early in 1964 won office on his own with the highest percentage in modern Greek history. Papandreou installed his son, Andreas, as Minister to the Prime Minister, one of the most powerful government positions. From that point on, Andreas Papandreou became the focus of Greek political upheavals and American participation in them.

Andreas Papandreou was born and educated in Greece, but while at the University of Athens during the 1930s, was imprisoned and exiled for participation in a left-wing student movement resisting the military dictatorship established by the royal family. For the next twenty years, he lived in the United States, married an American, and became an American citizen. He earned a Ph. D. in economics at Harvard, served in the U.S. Navy during World War II, was recognized as a distinguished economist through teaching at the University of Minnesota and heading the economics department at Berkeley, and was active in the campaigns of Hubert Humphrey and Adlai Stevenson. He returned to Greece to work on economic planning during the Karamanlis government, and then joined his father's government.

Brilliant, arrogant, charming, given to demagogy, and, particularly at the beginning, politically inept, Andreas Papandreou fought all his battles at once and thereby managed to antagonize concurrently the palace, the military, the conservative business circles, and the American establishment in Greece. He forced through a plan giving the Greek cabinet, rather than the CIA, direct control over the Greek intelligence agency. He called for social reform, for greater independence for Greece under NATO, for a reduction of palace dickering in military and political affairs. With the help of his American economist friends, he drew up the first comprehensive economic plan for Greece, and pushed a reform program similar to Western European social democratic programs. He played to Greek popular opinion on Cyprus, and with his father rejected the American proposal for a division of the island, a stand for which top State Department officials never forgave them. Suspected as he was by both right and left of actually being an American CIA agent, resented as he was for entering Greek politics at the top after a twenty-year absence, Andreas Papandreou played hard on the nationalistic chords and refused to compromise with the ruling circles. In time, he became the most popular political figure in Greece.

The response of the highly annoyed American Embassy staff was to drop him. On the whole, the staff never established the same diplomatic or social rapport with the Center Union party that it had had with Karamanlis' party. When the coming political crisis developed, only the American charge d'affaires, Norbert Anchuetz, made it a point to keep in contact with Andreas Papandreou, and that was done on the quiet, in the private homes of Americans living in Athens.

Early in 1965, General George Grivas, the right-wing royalist commander of the Greek Army on Cyprus and rival of Archbishop Makarios, with whom Andreas had allied himself, reported to King Constantine that Andreas, a highly popular figure on Cyprus, had been plotting with some dissident troops there, who had formed a club called Aspida, to overthrow the government in a "Nasserite" coup. A few months after the sensational "Aspida plot" story broke, George Papandreou became locked in dispute with the King over Papandreou's desire to fire his defense minister, who had been dealing with the King and Grivas against Andreas, and appoint himself to the post. Over that issue, the Papandreou government was ousted in July, 1965. There were serious riots, which proved to some of the American Embassy staff that Andreas was dangerous.

The events of 1965 were the beginning of the end of Greek parliamentary democracy, and led directly to the current situation. In the confrontation between an unpopular royal family and popular political figures, American policy-makers were on the side of the palace.

For the next several months, there was political chaos. The King dared not call elections, for the Papandreous would have won. Anschuetz, now in charge of the embassy in the absence of a U.S. ambassador for several months, informed the King that the United States would not approve a dictatorship, which the King was considering, but that it would go along with moves that were technically constitutional. Whether the King's subsequent moves were or were not constitutional is subject to some debate. He made several attempts to establish a new government through the more palace-oriented minority of the Center Union party. His tactic was to stall for time, meanwhile working to destroy the Papandreous' popularity. Despite our official neutrality, some of the embassy's staff members helped him. Andreas, they had decided, was inimical to America's interests, and his return to power should be forestalled. If this meant forestalling elections, so be it. They assumed that the Papandreous' following was a passing phenomenon. American Embassy employees and military representatives circulated through Athens denouncing Andreas Papandreou. Americans were in the chambers of parliament urging deputies to cooperate with the King's attempt to form a rump government. Although Andreas Papandreou was not brought to trial for the Aspida plot, their position was that of course they couldn't be sure, but, you know, where there's smoke . . . One former American official who was in Athens at the time argues that we should have been using our extensive influence "to prevent the subversion of constitutional government. . . . We were extremely influential," he says. "But many people in Washington and the embassy and the military didn't like Andreas, and were happy. It wasn't just that we didn't protest; we cheered. We didn't look ahead one inch."

The State Department says that it was surprised by the coup of April 21, 1967, but the only surprise could have been that it was not the coup it was expecting. Elections had finally been scheduled for May, almost two years after the Papandreous were ousted. It was increasingly clear, however, that despite everyone's efforts, the Center Union party, with Andreas Papandreou now at the zenith of his popularity, would win. The United States knew that if that happened, a group of generals, with the cooperation of the King, was planning to seize power. The CIA had suggested that in order to forestall the generals' coup, it set to work to win the election for the right, or at least strengthen the right to the point where the Center Union could not win. (The form of CIA interference would be the usual in such circumstances: money for publicity, for buying off election officials, for stuffing ballot boxes, and so on.)

Secretary of State Dean Rusk vetoed the suggestion for three reasons: it would be a messy business; it would place the United States squarely in opposition to a reform movement; and for what is known in government circles as the "Bay of Pigs reason," it was a shaky proposition in which the CIA could not guarantee the outcome. Which reason weighed most heavily in the decision is not clear. And so we waited for the inevitable. The American ambassador, Phillips Talbot, in several conversations with the King indicated that the United States hoped that Greece would not be taken over by a military junta, and that if the King did feel that he must suspend the constitution, he wouldn't do it for very long. We hoped, it was suggested—indirectly, of course, for one must be delicate in talking to a monarch about his plans for a coup—that he would be just as constitutional about it as he could. But, as one official in Washington puts it, "We were ready for the generals."

Exactly why the colonels stole the coup from the generals is not known. It may be that they feared that the King, who after all had been contemplating his coup for some time, was temporizing once again. It may be that they knew how the Americans felt about the Papandreous, and believed that since the United States was at least implicitly concurring in the King's coup, it would not object to this change of personnel. It may have come from their own frustrations within the ranks, for these were "country boys" from the lower middle class who were never going to rise to the military top. Colonel Papadopoulos, the leader of the coup, at one point the contact man between the CIA and Greek intelligence, had a controversial reputation as a fanatic Communist-hunter. Their reasons may simply have been what they said they were: their desires to "purify" Greece politically and morally and to save it from Communism. It is their literal carrying out of this program which has given the junta its comic-opera overtones: the banishment of beards and miniskirts, the forbidding of the playing of music of suspected Communists. And also its omnious ones: the widespread arrests, continuing on a smaller scale today, the apparent resort to torture, the prohibition of gatherings of more than five persons, and so on.

In any event, on April 21, a triumvirate of relatively low ranking officers—Colonel Papadopoulos, Brigadier Patakos, and Colonel Makarezos—took from the drawer the "Prometheus Plan," a NATO contingency plan for a military coup in the event of a Communist take-over, rolled out the NATO tanks, and seized Greece.

As it happened, they didn't have very much of it at first. The Navy, the Air Force, and the Army in the north, which outnumbered the southern army ten to one, were not with them. Therefore, what happened in the early hours of the coup made the difference. Since the colonels acted in the King's name, there was some confusion in Athens and in Washington at first as to just whose coup this was. Then, when Talbot made his way to the palace, he found that King Constantine was quite beside himself. Condemning the "incredibly stupid, ultra-right-wing bastards" who has stolen his coup, he asked if the United States might send marines to help him and the generals regain control, and requested that we try to convince the junta to take his orders, and that we land Sixth Fleet helicopters to evacuate his family if necessary. Talbot, by this time identifying our fortunes with those of the King, was deeply upset and sent his cable decrying "the rape of Greek democracy."

Sending the marines was never seriously considered. The Sixth Fleet cruised closer to the Greek shore, in case evacuation of Americans and the royal family became necessary, as it did not. The real issues in Washington in the immediate aftermath of the coup were the usual ones in such a situation—that is, a coup from the right, not the left; how soon and how strongly does the United States react, in terms of denouncing the action, suspending diplomatic contacts, and terminating economic and military assistance? A quick, strong, negative reaction on the part of the United States might have various levels of effects: at most, it might unhorse a new, if shaky, junta; in between, it can give us a strong bargaining position with a new government; at the least, it keeps the United States from being identified from the outset with a new regime of doubtful capacities and intentions.

Thus, when there was a military coup in Peru in 1962, the United States denounced it and removed the ambassador and suspended the aid programs until the junta set a date for elections and guaranteed a return to civil government; in 1964, there was a free election. Our language can be quite strong. In 1963, Secretary Rusk responded to right-wing coups in the Dominican Republic and Honduras: the United States views the situation "with utmost gravity. . . . Under existing conditions . . . there is no opportunity for effective collaboration . . . or for normalization of diplomatic relations. We have stopped all economic and military aid to these countries.

Ambassador Talbot pleaded with Washington for an early, very strong statement denouncing the Greek coup. His request was not granted. The explanation of this and everything that has followed lies essentially in who were the policy-makers in Washington, and how they were doing it.

Lucius D. Battle, the Assistant Secretary of State for Near Eastern and South Asian Affairs, an able diplomat who had served in various State Department posts during three Administrations, most recently as Ambassador to the United Arab Republic, had been installed in his new job for only six days when the colonels struck. He was essentially unfamiliar with the Greek situation, and he was and has remained deeply absorbed in other problems in the vast region of his responsibility. In his first days in office, a crisis in Yemen was budding, and the events which led to the June war in the Middle East were in train.

Battle, therefore, had to rely on his assistants: Stuart Rockwell, his deputy, and Daniel Brewster, director of Greek affairs, both career Foreign Service Officers. Rockwell's predilection throughout has been for an accommodation with the colonels. Brewster came at the problem with decided views of his own. He is *the* Greek hand at the State Department, not simply because of his formal position but also because he was born and educated in Greece, and served in Greece from 1947 through 1952, when the United States was establishing its ties there, and again from 1961 through most of 1965 when the embassy staff was deciding that the Papandreaous, particularly Andreas, would not do. As the Greek policy went up the line: Rockwell was inclined to agree; Battle was inclined to defer; and when the policy questions went from the sixth floor of State to the seventh, Secretary Rusk and Undersecretary Nicholas Katzenbach were preoccupied with other matters.

At the White House, in the National Security Council staff, Walt Rostow was as buried in Vietnam and other major crises as were the Secretary and Undersecretary. His staff was said to have had some reservations about Greek policy, but if so, they did not put up much fight. The only White House voice some State Department men recall hearing with any clarity was that of Mike Manatos, a presidential aide for congressional relations who was relaying the concern of the liberal elements of the essentially conservative Greek-American community. Recently, however, some Greek-American businessmen complained to the State Department about the junta's treatment of business in Greece, and their complaints made an impression.

The Pentagon's overriding concern was that nothing disrupt the military preparedness of Greece under NATO, or the ongoing operations of the military assistance program. The decisive group was the Joint Chiefs of Staff, whose traditional position has been that Greece is the "southern flank" of NATO, and it must be prepared at all times for an attack from Bulgaria. The Pentagon should not question the likelihood of an attack by the Bulgars, argue the Chiefs; it should be prepared for all eventualities; besides, who can read the mind of the Communist enemy? To the extent that Greece is not prepared, the argument goes, if the Bulgars do attack, the United States will have to make up the difference, so the more Greece is armed, the less likely it is that the United States would have to fight there. If, as the Greek junta did, a government dismisses 500 of the NATO-trained officers and purges many of the troops, that is unfortunate, and we shall just have to start from there.

There are some civilians in the Pentagon who question that Greece is a "flank" in classic military terms, and doubt Greece's strategic importance to NATO. But, says one of the doubters, "That concept was here when we got here, and it will be here when we leave." There is also some ambiguity as to whether the substantial Greek troops and weapons positioned in the Thracian plains in the north are poised against Bulgaria or against Turkey. The way in which the concept of Greece's military importance to NATO has reinforced the junta has been deplored by, among others, such a conservative as Mrs. Helen Vlachos, publisher of Greek newspapers and now in exile in London: "NATO is something we put our signature on when we were free and which was to keep us free. At this moment NATO is protecting the junta." The junta survives "entirely because of NATO power—NATO money, NATO weaponry, NATO jam in the morning, NATO suits, NATO everything you see."

And while the United States focuses on the "Southern flank," other parts of NATO have fallen out with our Greek policy. Norway and Denmark have suspended diplomatic relations with Greece; the German government has suspended military assistance; and the American policy is highly unpopular with the European social democratic parties, and with the prestigious Council of Europe. Some high-level civilians in the Pentagon have had some concern about the policy decisions regarding Greece. But these have tended to be the same men who were offering strong objections within the government to the escalation of the Vietnam War; with no prodding from the State Department to counter the military impetus of Greek policy, they fought other battles.

The Defense Department's consequent emphasis on the primacy of NATO strategy in policy-making on Greece happened to suit the prevailing mood at State. For some time the central tension in our European policy, which does receive ongoing attention on the seventh floor, has been over whether NATO is outmoded, a bar to détente with Eastern Europe, and should slowly be dismantled, or whether NATO still represents a farsighted policy and our best hope for promoting European unity and therefore must be maintained. At this point in time, with General de Gaulle shaking the NATO foundations, the latter viewpoint prevailed.

Thus there were not great policy debates about Greece. The policy tended just to happen, on an *ad hoc* basis, according to routine bureaucratic procedure. From time to time, there came from outside the normal chain of command strong suggestions that the United States take a firmer line against the junta, but only rarely did these suggestions permeate the structure. Occasionally, an issue even came to the President's desk. When such issues concern countries not normally subject to presidential or seventh-floor attention, they tend to get settled, rather quickly, by a presumption in favor of the position of the Secretary of State.

Responding to Talbot's request for a strong denunciation of the coup, on April 23 Brewster and Battle had drafted at least a mild one regretting the action—"The U.S. by tradition is opposed to the change of democratic government by force"—but Rusk ruled against its issuance. His arguments were that this might impair future relations the United States might wish to have with the new regime, and there were political prisoners whose safety was of some concern to us. If the United States tried to unseat the junta, went the prevailing thought in Washington, the result might be fighting in the streets between royalist and rebellious armed forces; moreover, the junta might be secure enough to prevail, and then where would the United States be? Instead, Washington would work with the junta, trying to influence it to work with the King, to take steps to return to constitutional government, and to free the political prisoners. Therefore it would not be useful to suspend diplomatic relations.

As for arms (substantial economic assistance to Greece had ended in 1962), a major consideration of the moment was that Congress was upset already over the extent and use—as in the Indo-Pakistani and Arab-Israeli fighting—of U.S. military assistance. There was some concern, on the other hand, that if military aid to Greece were stopped, it might be difficult to get it resumed. In a split decision, shipments of tanks and jets were stopped, but light arms, including rifles and bullets, jeeps and trucks, and spare parts—what is known in policy circles as "the rinky-dink stuff"—continued to flow. The issue of the small arms was argued; the argument that cutting them off would be more difficult than it was worth prevailed.

"You end up dealing with what is in front of you," said one of the policy-makers of the first week after the coup.

So for seven days the United States kept its silence, and on April 28, Secretary Rusk issued a statement weaker still than the one Brewster and Battle had drafted. It did not deplore the coup, and it made no mention of military aid, not even that some of it was being suspended, because, explains one official, "It would have been interpreted as an anti-coup move." "We have followed closely the situation in Greece since the military take-over there last Friday," said Rusk's statement. "I am encouraged to see King Constantine . . . has called for an early re-

turn to parliamentary government. We are now awaiting concrete evidence that the new Greek government will make every effort to re-establish democratic institutions. . . . I am gratified that Greece will continue its strong support of NATO." The colonels had wasted no time in pledging that. They showed less dispatch about satisfying the other wishes.

The Secretary's statement also noted that Colonel Papadopoulos had said that the political prisoners rounded up during the coup would be set free "in a few days," and that he trusted "this step will inded be taken." Andreas Papandreou was in prison. The pressure mounted quickly by his American friends, men with access to the highest levels of government, to prevent his assassination and secure his release probably has no recent equal. John Kenneth Galbraith from Harvard, Carl Kaysen from Princeton's Institute for Advanced Studies, Walter Heller from the University of Minnesota, and others were calling the President, the Vice President, the Secretary of Defense, and the Secretary and Undersecretary of State. President Johnson commented that this was the one issue economists were agreed upon. In his White House redoubt, Walt Rostow received more than 200 letters from professors. This pressure was responsible in some dergee for what restraint Washington displayed to the junta during the first days—the memoranda that went back and forth referred repeatedly to the fact that the academic community was upset—and also for our more-than-usual concern for political prisoners. But, in the case of the prisoners, there was also the fact that the junta had rounded up and imprisoned several of the State Department officials' old friends from the right.

Perhaps it was his distaste for Andreas Papandreou, perhaps a weary reaction to the pressure from the academies, so many of them his tormentors on Vietnam, that led Dean Rusk to respond in effect to one domestic pleader for Papandreou that Andreas is no longer a professor of economics. He is now a politician, and it appears that he may have "a good deal to answer for."

Eight months after the coup, about one half of the some 6000 prisoners whom the junta had rounded up were released. Andreas Papandreou, who had been kept in solitary confinement all that time, was among them. Both the United States and the junta were interested in removing him from the Greek scene, and so he was released and allowed to leave the country.

Since the coup, the policy questions have arisen in terms of more cooperation with the junta. The policy-makers don't put it that way, of course. They point to Washington's "cool and correct" relations with the colonels, and our use of "carrots and sticks." They also point out how cooperative the junta has been in serving our global needs.

Two months after the coup, the June war broke out in the Middle East. The Greek government permitted the United States overflights, base rights, and blanket, rather than ship-by-ship, use of Crete's landing facilities for the Sixth Fleet. Thousands of American evacuees were landed in Athens, a fact which every Foreign Service Officer whose family has been abroad in a crisis appreciates. (Just why they had to be taken to Athens, as opposed to Rome or elsewhere, is not clear.)

Moreover, during the Middle East crisis, for the first time a Soviet fleet appeared in the Eastern Mediterranean. To the Navy, this made our entrée to Greek ports all the more essential, so that our sailors could have their "R and R" (rest and rehabilitation). Places of respite were diminishing: Arab ports were out, Spain does not like us to land at Gibraltar, Italy limits our landing rights, and Turkish ports do not suffice. Early this year, the Navy pressed for a port call at Athens by the U.S.S. *Franklin D. Roosevelt* to re-establish the fact that we considered Greece a port of call. The visit turned into a friendly shipboard gathering which included the Greek defense minister, Ambassador Talbot, and Colonel Papadopoulos. Cameramen recorded the event, and the story was widely printed in Greek newspapers (under such headlines as "Warm Handshake in Front of Franklin Roosevelt," and "Greece Believes in NATO"). The State Department says that it was all a matter of mixed signals somewhere along the way.

In November, the junta again earned the State Department's gratitude. Turkey was about to invade Cyprus. The United States sent a special negotiator, Cyrus Vance, to cool the crisis and persuade both the Greeks and the Turks to withdraw some troops from the island (in the process, cementing the fact that the United States was dealing government-to-government with the junta). Both sides agreed. The State Department likes to point to this act of statesmanship by the junta, and compare it to the "irresponsibility" of the Papandreous. Aside from the fact that one operated under martial law and the other under an open parliamentary system, it is also possible that the junta was motivated by the fact that if the Turks had invaded, the Greeks would have been overwhelmed.

One of the grounds on which the United States explained its continuing relationship with the junta was the technical one that our diplomatic accreditation was to the King, and since the King dealt with the junta, so did we. Moreover, we were doing what we could to work things out between the two. Therefore, there was a problem when, on December 13, the King decided to overthrow the junta. The United States knew that he had been mulling the action for some time, but officials say that the King did not inform Talbot of his decision to move until that very day. At that point he asked for our help. Talbot relayed the request and indicated that he was giving some thought to going north with the King, our last hope for Greece.

Within the U.S. government, the hope was that the King would succeed, and the betting was that he would—most of the troops were in the north and had not been with the junta. The United States did not, however, want to be caught on the wrong side in case he failed. Help was refused, and Talbot stayed in Athens. As it turned out, Constantine's coup may set some sort of record for incompetence, and within twenty-four hours he and his family were on their way to safety in Rome. ("I find it insulting," one State Department official complained, "that the United States is accused of being associated with such a disorganized coup.") When the King left the country, our basis for dealing with the regime had disappeared, and for a few weeks Washington suspended normal diplomatic contacts. But later, because, it is said, the junta and the King were negotiating for the King's return to Greece, we resumed our dealings—albeit "cool and correct"—with the colonels.

"The purpose of our policy," said one high State Department official, "has been to influence these people to move in the direction of constitutional government, and it has had that effect." Thus the policy-makers are quite pleased to point out that in March the junta issued a draft constitution. The officials must have been counting on nobody's reading it, however ("the lawyers are studying it," was the reply of one whom I asked about it), for the draft constitution was a document straight out of *Catch-22*. "The press is free and exercises a social mission, that entails obligations . . . Confiscation is permitted . . . when it insults the Christian religion, insults the person of the King, the King's parents, the Queen, the crown prince, their children and wives, insults the honor and reputation of individuals holding public office or having held public office. . . ." And so on. The constitution was to be freely discussed ("the people are writing the articles of the constitution"), under martial law. The expectation was that a revised version would be issued—there was no way for it to go but up—showing the regime's receptivity to public opinion. A referendum on the constitution has been set for early September, but Colonel Papadopoulos has declined to set dates for the formation of political parties or for parliamentary elections. On the anniversary of the coup, one of the newspapers closest to the regime wrote that "the fingers of one hand are not enough to count the number of years it needs to accomplish its aims."

The method by which the United States achieved this policy success is one that State Department policy-makers talk about quite a bit: the use of "carrots and sticks." The fact is, however, that diplomats usually prefer offering carrots to wielding sticks. And so by July, 1967, the embassy, having adjusted, as embassies do, to the new circumstances, suggested a gradual resumption of the remaining military aid. Having continued diplomatic contacts, having continued to ship small arms, having done nothing to discourage private investment, the United States had made the remaining weapons—minesweepers, tanks, jets—the last symbol of our attitude of reserve toward the junta. Nevertheless, the question did not cause much debate within the government. The embassy suggestion was approved by the State Department in July and forwarded to the White House. President Johnson concurred, provided that private soundings indicated that Congress would not object.

The soundings were not taken, however, as other planned soundings over the following year on resuming the aid were not, because each time they were about to take place, the junta made some particularly embarrassing move. For the anniversary of the coup, for instance, they put aged George Papandreou and Panayotis Kanellopoulos, the rightist prime minister at the time of the coup, under house arrest. (Around the State Department, this is seen as evidence of the colonels' "poor sense of public relations," as was the fact that only half of the political prisoners were released after eight months.) It was a bit awkward to push for increased arms aid under such circumstances, and it was important not to endanger further the entire controversial arms program by arousing Congress over Greece.

Arms aid to the junta would be increased, however, as soon as the congressional thicket could be negotiated. One State Department official explained (in the same interview) that this should be done because (a) this would be the way to nudge the junta toward a constitutional government and (b) the junta had no intention of stepping aside for some five years and we had better get along with them as best we could. The colonels have also passed along the word, persuasive to some of the policy-makers, that we had best help them further in order to offset the neutralist—the words "Nasserite" and "Gaullist" are used—inclinations of some of the younger officers associated with them.

The major reason for the planned resumption of arms aid, however, lay in the comparative strengths of the pressures brought to bear in Washington. The men who run the military assistance program were anxious to commit the remaining weapons for Greece which had been programmed for the past fiscal year, so that they could justify to Congress their requests for still more weapons for Greece—close to $70 million worth of them—over the next fiscal year. The arms resumption was also vigorously championed by the Joint Chiefs of Staff and by the CIA, anxious to retain its base in Greece. Battle was said to have developed some doubts, but when State is only doubtful and the Pentagon and the CIA are enthusiastic, State loses, unless someone decides to take the fight to the White House.

The general view of those responsible for our Greek policy is that it has all worked out for the best. "They [the colonels] haven't done too badly," said one. "They've made some improvements on the Greek scene. They have brought into the government a sense of austerity and welcome probity, I would say. Although they are inept economically, they haven't brought about disaster. They do lack important things, obviously. They lack constitutionality, legality, experience, and a sense of public relations. But from their point of view, why should they step down?" Another suggested that the way to look at the situation was that order had been restored, Andreas Papandreou and the King, the two most exacerbating factors in Greek politics, were out of the country, and a constitution was on the way.

Despite these ideal circumstances, Washington has not run out of ideas about how to help Greece. The current thinking is that the thing to do is to nudge the colonels into inviting Karamanlis to return from Paris to head the government. Andreas Papandreou and others have suggested at coalition of center and right, and perhaps the United States would accept this, but it is assumed that the right is still the best hope for order in Greece. The embassy has reported, anyway, and it is the accepted wisdom among the policy-makers—despite evidence that the Americans in Greece have chronically and wishfully underrated the Papandreous' popularity—that Andreas Papandreou's popularity in Greece has plummeted to zero, and that his father's is down to 10 or 20 percent. It is also argued that the Greek people are "apathetic," even relieved to have been saved from the politicians, and, lo, the threat of leftist violence, which we and the right have been fearing and guarding against these many years, has seemingly disappeared.

Others do not think it has, and argue that the longer the colonels stay in power, the more likely it is to grow. It does not strain the imagination to consider, if there were Communist insurgency against a military government we have been arming, which side the United States might be on. The policy-makers assume that the Greeks have had their fill of civil war, but the lesson others draw from the 1930s and 1940s is that Greece has a history of violence in the face of repressive regimes. Yet even if the worst—"another Vietnam," for example—does not come to pass, there are other grounds for being disturbed about our Greek policy.

Much of foreign policy, one official says soothingly, is simply "buying time." In the Greek case, another way of putting that might be "mortgaging the future."

GOVERNOR ROCKEFELLERS' PROPOSAL FOR SETTLEMENT OF WAR IN VIETNAM

Mr. McGEE. Mr. President, the Governor of New York, a candidate for his party's presidential nomination, has put forth a proposal of his own for settlement of the war in Vietnam. It is a proposal that carries little weight, as the Evening Star observed editorially yesterday, unless it presupposes a genuine desire for peace on the part of the Vietcong and the North Vietnamese. If they have such a desire, they can demonstrate it at Paris and peace likely would ensue. So far, however, the Paris talks have not been promising.

The comments of the Evening Star bear attention as regards Governor Rockefeller's proposal. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ROCKEFELLER'S PEACE PLAN

Governor Rockefeller's four-point proposal for settlement of the war in Vietnam is a strange blend of daydreaming combined with wishful thinking.

The substance of the four points is: A mutual pullback of North Vietnamese and allied troops, a buffer force consisting largely of Asian troops (what Asian troops?) and a cease-fire, the withdrawal of 75,000 American troops from Vietnam as a "sure sign of good faith," free elections and direct negotiations between north and south to determine the future of the two Vietnams. The Viet Cong would be guaranteed "participation in the political life of the country" if it renounced the use of force. If Hanoi rejects his plan, said the governor, the United States should withdraw its troops to populated areas, presumably letting the rest of the country go to the enemy by default.

The major trouble with all this is that it is meaningless unless it presupposes a genuine desire for peace on the part of the Viet Cong and the North Vietnamese. Where is there any plausible evidence of such a desire?

More than 30 peace overtures have been made to Hanoi and all have been spurned, unless one counts as a favorable response the talks in Paris which to this time seem to be getting nowhere. On March 31, President Johnson announced that he was halting all bombing north of the 20th parallel. One might think of that as "a sure sign of good faith" on our part. Hanoi's response was to significantly increase its infiltration of troops and supplies into South Vietnam and to press ahead with its aggression. What we would like to see is some "sure sign" of good faith on the enemy's part. Given that, the war could have been settled months ago.

In his former major statement on Vietnam, the Grants' Pass speech in Oregon during the 1964 primary campaign, Governor Rockefeller said: "Winning the fight for freedom in Vietnam is essential to the survival of all Asia. The Communist Viet Cong guerrillas must be defeated . . . the commitment we make in Vietnam is to all men who are free and to all men who would be so. . . ."

Last week he said: As President, "I also pledge that we will not again find ourselves with a commitment looking for a justification."

Anyone is free to change his mind as circumstances change. But this is quite a switch for any man who professes to have an answer to the nightmarish problem of Vietnam.

THE ROLE OF PRIVATELY OWNED HOSPITALS IN OUR NATION'S HEALTH-CARE SYSTEM

Mr. MORSE. Mr. President, despite the inevitable march toward conglomerates and corporate giants, it remains a true and comforting fact that the private businessman remains the foundation of our corporate society.

This basic truth was brought home to me earlier this year when I spoke to the Association of Western Hospitals at Portland, Oreg. This group represents hundreds of hospitals in the Western States.

Mr. President, as you know, nonprofit and institutional hospitals have emerged as the major factor in our national health scene. And, today, 90 percent of all the country's hospitals fall in one or the other of these two categories; that is, they are either publicly owned, or else they are run by governmental or other groups on a nonprofit basis.

Indeed, there are those who equate hospital care with public ownership. They find an inconsistency in combining hospital care and profit. Yet they hardly expect doctors to practice without income or manufacturers to sell hospital supplies for charity. As in any other field, the real question is, Do they do a good job for society? Are they needed? Should they be supported and encouraged?

Many of the 800 privately owned or so-called proprietary hospitals are in my State. I have had called to my attention the extraordinary work done by several of them and I would like to comment here briefly on the fine civic services performed by the Woodland Park Hospital at Portland, Oreg., and at the McMinnville Hospital, at McMinnville, Oreg. Both these hospitals are privately owned. Both are fully accredited by the Joint Commission on Accreditation of Hospitals. And both are members of the Federation of American Hospitals, the national association of privately owned hospitals.

The Woodland Park Hospital is the largest private hospital in the Pacific Northwest, having 102 beds. It serves an area that holds about 100,000 of Portland's 900,000 citizens. It brings hospital care closer, both geographically and emotionally, to thousands of people in my State.

As we are all aware, the distance to a hospital is not always a matter of miles. With the aggravating traffic problems that beset all our major cities, a suburban hospital is often a lifesaver, in the strictest sense of the word. Woodland Park is that kind of hospital. It is creative, community minded, evidenced by the recent installation of the first hospital hardtop heliport in my State.

There is another important factor that should not be forgotten. Proprietary hospitals pay taxes and carry their share of the economic burdens of today's city life. So successful has Woodland Park been, that, I am told, Spokane, Wash., is now planning a similar venture. I wish them well.

The McMinnville Hospital has recently been told by McMinnville's citizens how they feel about that privately owned hospital. It first opened its doors for patients in 1930 by one doctor who saw a need and acted. For many years McMinnville was the only hospital available in the Upper Willamette Valley. In the last 38 years it has expanded and played a constantly increasing role in its area. Now it has become recognized as a leading hospital in the State.

The principal of McMinnville's high school, Kenneth H. Myers, writes that the McMinnville Hospital has done a "commendable job in providing professional service." Mayor Norman R. Scott states that "not only McMinnville but the surrounding area has benefited over the years from the excellent medical services furnished." Viewed from his special angle, Sidney M. Huwaldt, president of the McMinnville Chamber of Commerce, points out the important role that the hospital has played in the economic development of the community.

The McMinnville Hospital is just about to start an $800,000 modernization project. This project was not financed by the Federal Government, it was financed by a local bank, with the full support of the community. I can think of no better example of the role that constructive private enterprise can play in our Nation's system of health care. Ground will be broken next month to begin this modernization, and I wish the McMinnville Hospital well.

These two well run private institutions are characteristic of hundreds of private hospitals whose fine work is often overlooked simply because the huge institutional hospitals are the center of attention. But they deserve every consideration from the Federal, State, and city governments. Most of them were originally built to fulfill the health needs of communities that had no other hospital of any kind. They have continued to take an active part in community affairs as active taxpaying, responsible businesses.

It is a basic law of our capitalistic society, and a good one too, that men often perform at their best when incentives are there to induce quality and economy. The same thing holds for a hospital as for any other business. If they do the job well and competitively they will survive. Otherwise they will fail, for they have no cushion of public funds to cover inefficiency or poor quality. Their contribution is in the best tradition of our society. I believe that privately owned hospitals are entitled to be considered as a working partner in our hospital planning for the future.

GUN CONTROLS—WHO WILL WIN THE VICTORY?

Mr. TYDINGS. Mr. President, the national news media are giving broad coverage these days to the fast-changing situation in Congress with respect to gun control legislation. Sometimes it seems that a sporting contest is underway, with first one side and then the other side gaining an advantage or a temporary victory.

But when all the speeches are made, when all the parliamentary maneuvers are accomplished, when the final vote is taken, the victory or the defeat will not be a victory or defeat solely for the gun lobby or solely for those of us who have been trying to enact effective gun control legislation.

The victory or defeat will be felt by all Americans. Either the citizens of this country are going to obtain protection against the hazards of unrestricted weapons of death, or else the people are going to have to learn to live with a situation in which the most civilized Nation on earth tolerates thousands of gun deaths each year because the will of the people cannot make itself felt through the democratic process.

This is an intolerable situation. Every public opinion poll over the past three decades has shown that a vast majority of the American people want gun controls. Yet those of us who advocate gun control legislation have to battle every inch of the way as though our views were held by only a small minority of Americans.

Once again, I urge Senators to listen to the responsible voices of public opinion. Here are quotations from some recent editorials on the subject:

The Harrisburg, Pa., Patriot:

The gun lobby has the strategy figured out pretty well. Stall.

Marshall, Tex., News Messenger:

It is difficult to understand any responsible opposition to a gun-registration law.

The Denver Post:

We have heard the argument that "guns do not kill—people do." To be sure, but there is no question about the relationship between large numbers of guns and large numbers of crimes of violence involving guns. Tighter gun control is one way of attacking the problem.

I and other sponsors of effective gun control legislation can afford to lose legislative debates; but I do not think the people of America can afford to lose the struggle to put some reasonable controls on weapons of death.

Mr. President, I ask unanimous consent that these editorials and news items be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, July 11, 1968]

NO CEASE FIRE

During the two-week delay in Senate Judiciary Committee action on gun control legislation, about 700 American civilians—give a few, take a few—were shot to death right here in the United States. Some of them were murdered, a good many took their own lives and quite a few were killed "accidentally" by people who mistook them for intruders, or for wild deer, or who had no idea in the world that the gun could be loaded. Anyway, whatever the reason, they're dead now, and there's no use crying over them, is there, or putting a burden on sportsmen for the sake of a few hundred human lives?

The toll mounts up, though. In the course of the 20th century, nearly 800,000 Americans have been put to death by firearms—not counting those killed in military service. In point of fact, this is a considerably larger toll than that exacted by all the wars in which Americans have fought from the Revolution to Vietnam.

The toll goes on, too. Nothing is more certain than that some American civilian will be shot dead just about every half hour as the debate over gun control drones on in the Judiciary Committee and on the floor of the Senate. We wouldn't want Congress to legislate in panic or to feel rushed in any way. But some sense of urgency might be in order.

It is quite true, as the gun lobbyists are so fond of pointing out, that legislation will not instantly alter human nature and that killing will go on even if all the guns are registered and all the gun owners are licensed and all the dealers are forbidden to sell their deadly wares to criminals, lunatics and children. But suppose we cut the killing down to one every hour instead of one every half hour? Would American sportsmen not be willing for the sake of that modest saving of human life to undergo the burden they already bear so gallantly when they choose to operate an automobile?

[From the Plain Dealer, July 8, 1968]

GUN SALE CONTROL

We are happy that big stores here are restricting or stopping sales of firearms and violence toys.

That won't take anything away from the need for a strong gun control law, however.

Self-imposed gun sale controls by department stores will reduce the available number of weapons. Once out in the community, firearms flow from hand to hand by sale and theft, and can come all the more readily into the possession of dangerous or irresponsible persons.

Firearms are a small fraction of a big department store's long list of sales items. So the big stores are freer to get into the spirit of a public that has become fed up with loose gun trading.

Small shops, especially those which must depend largely on firearms sales, and merchants less concerned with their image in the minds of the whole public will not follow the big stores' lead.

Nonetheless we compliment those retailers who are cutting down or cutting off their part of the arms traffic. They are foregoing profits. They are setting high standards for other merchants in a sector where the highest standards are what the public wants.

[From the Marshall (Tex.) News Messenger, July 8, 1968]

BASIS OF FACT

Not even the most avid proponent of gun control legislation is prepared to claim that crimes of violence involving firearms will decrease if the purchase of guns is made more difficult. At the very least, though, they are entitled to a debate on the merits of the bill pending before Congress, not what opponents mistakenly fear is in the bill.

No one would be denied arbitrarily the right to buy a gun if the congressional bill becomes law. No one would have his pistol, rifle or shotgun taken away from him. American citizens would not be disarmed. The right to hunt game or practice marksmanship would not be curtailed. Any citizen of good character would be able to buy a gun under this legislation—at the most a waiting period of a week or two would be required while authorities are given a chance to investigate the application for purchase.

Congress has had under consideration a bill which would do only these things: Prohibit interstate mail-order sales of firearms and ammunition and ban over-the-counter sale of firearms to nonresidents of a state. This merely extended to rifles and shotguns the restrictions imposed earlier by Congress on mail-order sales of pistols and revolvers.

Now President Johnson has asked Congress to add a registration provision to the bill. The outcry has been horrendous. Men are crying out that registration is but a step toward eventual confiscation of all guns, thereby disarming the American public. But there is no substantiation for this claim. The bill is aimed solely at making it easier to trace the ownership of guns that have been used by criminals.

It is difficult to understand any responsible opposition to a gun-registration law. Reputable citizens have nothing to fear from registering their guns. What is more, if their guns are stolen, recovery can be simplified when positive identification is possible through registration.

A gun control and registration law can hardly hurt the American people. It will neither take their guns from them nor prevent them from buying others. Its main thrust is to make it more difficult for criminals and imbeciles to buy and keep guns. It is not a cure-all for crimes of violence. It is merely a step in the direction of trying

to prevent the irresponsible possession and use of firearms.

[From the Washington (D.C.) Post, July 12, 1968]

THE HOLDUP MEN

The National Rifle Association flugelmen on the Senate Judiciary Committee have won an important skirmish. In a successful ambush, they winged the gun control bill—not fatally, we hope, but in such a way as to impair its effectiveness. More important still, from their point of view, they achieved additional delay in getting the bill to the Senate floor. They do not dare to let the gun control bill come to a vote in the Senate; their strategy is to garrote it in committee until they can be sure it will be trampled to death in the adjournment stampede.

This strategy may succeed in the 90th Congress so far as registration of firearms and licensing of firearms owners are concerned. In that case the NRA will have achieved its usual aim of making gun control legislation ineffectual so as to afford a basis for subsequent assertions that it doesn't really work. But there is liable before too long to be a reckoning for the NRA. A lot of people, frustrated by this gun peddlers lobby, are going to be roused to a recognition that it is a monstrous fraud—without any valid claim to the exemption it enjoys from taxation and from registration as a lobbying agent.

America can dramatically reduce the number of murders, suicides and accidental killings accomplished each year by gunfire. The means are simple, clear and realistic: they require a ban on the mail order sale of guns; registration of guns; and licensing of gun owners to ensure that guns are possessed only by responsible, law-abiding adults. The fight to attain these reasonable protections of public safety will go on in this Congress and, if necessary, in the next Congress and the next and the next, until it is won.

[From the Denver (Colo.) Post, July 8, 1968]

CONGRESS SHOULD EXPEDITE GUN CONTROL

It is getting late in the session and President Johnson has lost vital support for the job, but Congress still has not done all it should in the matter of gun registration and control.

One bill barring mail order sales of handguns has been passed. It also tightens up across-the-counter sales and contains curbs on importation of foreign arms.

But there are two more things needed:

Enactment of a bill to extend the mail order provisions to long guns—rifles and shotguns.

Enactment of some sort of registration bill, offered by Sen. Joseph Tydings, D-Md., appears to have the best chance of passage. This bill would require registration of firearms. States would be given the option of passing registration legislation; if they didn't federal registration would become mandatory.

In the background there is a registration bill prepared at the request of President Johnson. It is tougher still: fingerprints and photographs would be required, along with police certification and a doctor's certification of mental competency.

We think the Tydings bill would be worth a trial; at the least it would allow law enenforcement officers to keep tab on weapons. If it does not work well enough then the Johnson approach may ultimately be required.

It is still doubtful whether sportsmen will support any kind of registration bill. We think they should; registration will protect their right to bear arms by making it more difficult for criminals to buy and possess arms.

And there is the larger picture of national welfare to consider. As a Harvard University psychologist, Thomas F. Pettigrew, asked in Sunday's Denver Post Perspective:

"Are the unrestrained rights of these legitimate businessmen (makers and sellers of firearms) and gun users to be valued over the urgent and obvious requirements of an urban nation with a crisis of firearms violence?"

It is a good question and one that gun owners should consider carefully.

If the nation lives in an atmosphere of violence—at a time when urbanization requires less violence—should not all of us do what we can to lessen that spirit? For gun owners this might reasonably lead to a decision to register arms on behalf of a more peaceful society.

We have heard the argument that "guns do not kill—people do." To be sure, but there is no question about the relationship between large numbers of guns and large numbers of crimes of violence involving guns. Tighter gun control is one way of attacking the problem.

There is one thing President Johnson should—and can—do immediately. The law passed last month on handguns contained a provision permitting the Treasury Department to cut off importation of weapons it does not classify as fit for sporting uses. Since there are reports that importers are trying to flood the country with up to 3 million foreign weapons before the law takes effect Dec. 1, the President should close the gap now.

An executive order would seem entirely justified. There is no good reason for permitting the flood of cheap foreign guns to continue. Obviously Congress intended to stop this flood; the President should authorize the Treasury Department to do it now.

[From the Harrisburg (Pa.) Patriot, July 6, 1968]

PARK SHOOTOUT—IT POINTS UP NEED FOR CONTROLS

The gun lobby had the strategy figured out pretty well. Stall. Let things cool off. Give opposition time to develop. Let the public's demands for gun-control legislation be matched by an outpouring of demands from owners for the freedom from the botheration of having to register their guns the way they register their automobiles, their dogs, their marriages and so on.

The strategy seemed to be working. No guarantees here, but good possibilities. The Senate Judiciary Committee put off consideration of the Johnson Administration's gun-control bill until after the Fourth. In the House, the Rules Committee blocked action on the bill that the House Judiciary Committee had approved.

And then some lunatic comes along and spoils everything.

We don't know whether Angelo Angelof, as he had been identified at this writing, was thinking about the processes of legislation before he walked into Central Park in New York City the other day. Probably he wasn't. We don't know why he decided that July 3 was a nice day to kill a young woman. But that is what he did, and, having finished her off, he put bullets in an 80-year-old gentleman and two police officers before police bullets brought him down.

Somehow, we cannot get aroused over the loss of liberty that would have to be endured by people like Angelof or Sirhan Sirhan, the fellow who put a bullet in the brain of Sen. Robert F. Kennedy, or Lee Harvey Oswald, who dispatched Senator Kennedy's older brother, if they were inconvenienced in acquiring their lethal weapons.

The public relations director of the National Rifle Association, John R. Hess, says his organization was "horrified at the senseless shooting in Central Park," but it was obviously not so horrified as to change its mind. Mr. Hess wishes to point out that "New York has the most stringent gun controls in the United States . . . We hope this horrible crime will not add more fuel to already distorted appeals for additional firearms controls."

The gunmen's passion for their lethal weapons is not matched by logic of approach. It does not seem to have occurred to Mr. Hess that he is proving exactly the opposite of what he thinks he is proving.

In the first place, New York does have a tough law, and the result is that in New York only 31.8 per cent of all murders are committed by guns, while in Mississippi, were the law is frightfully weak, 70.9 per cent of all murders are committed by guns.

So a tough state law can have some beneficial effect. But in the second place, even one like New York's Sullivan Law, or one like Pennsylvania is trying to get passed, cannot substitute for the stronger national measures which, as President Johnson declares, are needed "to protect the American people against insane and reckless murder by gunfire."

[From the Minneapolis (Minn.) Tribune, June 30, 1968]

CONGRESS STALLS ON GUN CONTROLS

"The fervor of the people who want a gun-control bill fades, but the other side—they've hardly started, and their fervor never fades."

These words, spoken two weeks ago by an assistant to Sen. Wayne Morse, seemed to be applicable to developments last week. The tide of congressional mail on the gun-control issue seemed to be shifting to the side of those who oppose controls. And the fight for tougher controls took a setback when Sen. Quentin Burdick of North Dakota success fully won a delay until July 10 in further consideration of gun legislation by the Senate Judiciary Committee.

According to the Washington Post, long a proponent of gun controls, "The aim of the gun lobby is quite clear: It hopes to frustrate firearms control by the tactics of delay." The gun lobby, the Post says, expects "that if it can only hold off congressional action for the rest of this session, the public excitement on the subject will subside until another national leader is shot down."

Sen. Joseph Tydings, also an advocate of stiffer controls, called Burdick's victory a "real defeat" for controls. Tydings said the delay "substantially weakens chance for passing responsible gun legislation this congressional session."

We hope Tydings is wrong. But the answer will lie mainly with the public, which must continue to make clear to Congress that a strong majority favors gun controls, and with those senators and representatives courageous enough to resist the emotional pressures generated by a minority, but vocal segment of their constituencies. Gallup Polls for years have consistently shown a strong majority of Americans favoring gun controls.

President Johnson last week urged Congress to act immediately to legislate controls over mail-order sales of rifles and shotguns as a necessary step to follow up its earlier action in establishing controls over mail-order sales of pistols. Then the President went on to urge registration of all guns and licensing of all users, measures which seem quite reasonable in light of the seriousness of the problem.

The nation, as President Johnson so well said, is long overdue in responding to the danger of guns in criminal and incompetent hands. We believe that such a response means more than action by the federal government, but also action by state and local governments and private business. In this context, this newspaper has stopped accepting advertisements for handguns and will accept rifle and shotgun advertisements only from licensed dealers.

President Johnson detailed "a shocking increase in crimes where deadly weapons are the instruments of violence." In 1967, he said, there were 7,700 murders with guns, compared with 6,500 in 1966; in 1967, there were 55,000 aggravated assaults with guns,

compared with 43,000 the year before; in 1967, there were over 71,000 robberies with guns, while in 1966 there were 60,000.

Registration and licensing, said the President, would not impair the legitimate ownership and use of guns in this country. "These would prevent firearms from being sold to or possessed by criminals, dope addicts, alcoholics, the mentally ill and any others whose possession of guns would be harmful to the public health, safety and welfare."

The President continued: "The American people have been too long without them. The cost of inaction through the decades affronts our conscience. Homes and city streets across the nation which might have rung with gunfire will be spared the tragedy of this senseless slaughter. We will never be able to measure this violence that does not erupt. But our history tells us America will be a safer country if we move now—once and forever—to complete the protection so long denied our people."

J. Edgar Hoover, director of the FBI, has written: "Easy accessibility of firearms is a significant factor in murders committed in the United States today."

Isn't it time that Congress do something to help protect the American people—hunters, sportsmen, and nonshooters alike—from those people who shouldn't have guns?

[From the Denver (Colo.) Post, July 8, 1968]

WE SHOULD PASS GUN CONTROL BILLS

(By Robert G. Spivack)

WASHINGTON.—The argument has been made by Sen. Eugene McCarthy and other thoughtful men that it is unwise to enact any legislation under "panic" conditions or in response to great emotional pressure.

This is a view that is widely shared. Where legislative procedures are concerned it is sound policy. It is for that reason, despite urging from many quarters, that I have deferred expressing my own views in the current debate over gun control legislation.

This nation has been in a state of emotional turmoil for much too long. Some of the emotion has been artificially stimulated, some has welled up from deepest anxiety. It has been of two kinds.

After the big city riots all of us have heard, even from the mildest people we know, the comment that, "one more riot and I'm going out to get me a gun, for self-protection."

At the same time, after the assassinations of Martin Luther King and Robert Kennedy, we have all heard people say, "What's happening to this country? Any nut can get a gun and kill anybody he does not like. Isn't there any way to protect men like Kennedy and King, or prevent such tragedies?"

Very often the same people expressed both sentiments. Neither is difficult to understand.

But there comes a point at which each of us must make a decision where a national policy is involved. It was altogether proper that the Congress, as well as the rest of us, listen attentively as the National Rifle Assn. and its opposition groups, such as the Emergency Committee for Gun Control, headed by Col. John H. Glenn Jr., present their arguments.

We have heard them all now and we have also heard from the President. There has been ample time for each side to present its case.

As I review the evidence and examine the facts, it seems to me that the National Rifle Assn. has lost the argument. This is not a conclusion based on any sense of panic. Nor do I buy the arguments that America is a "sick society," or that Americans are more violent than the Red Chinese, the North Vietnamese Communists or other "peace-loving" people.

Nor do I believe that every sportsman is a cold-blooded killer, any more than every surgeon is, at heart, a butcher.

What it boils down to is simply a matter of common sense. Where guns are easily accessible people are going to get them, as they have. There are approximately 100,000,000 in this country today, owned by individual citizens.

In those parts of the country where guns are most easily obtained the murder rate is 200 to 300 per cent higher than it is in cities or states where regulations are more stringent.

The argument has been made that it is the man, not the weapon, that does the killing. We know there are far more murders committed on impulse than are premeditated. But common sense tells us that a killer, whether he is in a blind range or a hardened criminal, is less likely to commit murder if his own life is endangered, as it is when a knife, or other instrument, is used. Then the killer comes closer, physically, to his victim. That increases the risk to himself:

What does the present situation require? The minimum in the present circumstances, it seems to me, would be these three points: (1) registration of all guns owned or possessed by anyone other than law enforcement officers, or members of properly constituted military forces (2) licensing of all persons who own or use guns (3) a ban on mail-order gun sales.

Postmaster-General Marvin Watson has already ordered that guns being shipped through the mails be properly identified, an important first step towards bringing the traffic in guns under control.

But if disarmament among nations is imperative it is equally important within the nation. The objective is the same, to cut down violence from whatever source it springs.

TRIBUTE TO THE HONORABLE JOE RICHARD POOL

Mr. TOWER. Mr. President, the flags over the Capitol fly at half-mast today to show our respect for the late Honorable Joe Richard Pool, and our sorrow at his early death. He died Sunday at the age of 57 while performing his duties as chairman of the Subcommittee for Postal Modernization and Facilities of the Post Office and Civil Service Committee. Mr. Pool, who represented the Third Congressional District of Texas, also served as a subcommittee chairman on the House Un-American Activities Committee and gained national recognition during the hearings in 1966 relating to the activities of war dissenters.

Mr. Pool was born in Fort Worth, Tex., and attended the Texas public schools. His undergraduate work was completed at the University of Texas, and he received his law degree in 1937 from Southern Methodist University Law School. He served the U.S. Army as an investigator from 1943–45, and then returned to Texas, where he practiced law. He served two terms as the Dallas County member of the Texas House of Representatives.

He first gained membership to the U.S. House of Representatives in 1962, when he was elected to the 88th Congress. He was reelected to both the 89th and the 90th Congresses.

Mr. Pool served in the House of Representatives for 6 dedicated years. He proved himself unflinching in his patriotism. His constituents never had cause to doubt Mr. Pool's love of country and his devotion to a free America. Constantly aware of the threat of Communist subversion, he battled to protect American liberty.

Representative Pool, this loyal American, this zealous patriot, was also a devoted husband and father. I should like to extend my deepest sympathy to Mrs. Pool and to the late Representative's four sons.

POLITICAL DISORDER AT CONVENTIONS

Mr. McGEE. Mr. President, it is ironic perhaps that those who 4 years ago most vociferously objected to the "extremist" dictum uttered by Barry Goldwater in his nomination acceptance speech at San Francisco have now largely embraced the idea that extreme methods are acceptable if they have a point to make.

As the Washington Post editorially noted this morning, violence has become alarmingly common among those who plan to converge on the Democratic Convention in Chicago next month. It is time to defuse the situation of its present tension so that the convention can proceed with nothing but the customary type of political disorder, free of violence—physical or verbal. The contenders for the nomination, through their representatives, should work out arrangements now that will help settle disputes before they arise and relieve tensions already building. In this connection, we can welcome the statement of Dr. Ralph David Abernathy that the poor people will have delegations on hand at both major party conventions, but not demonstrators. His assurances that the poor people will not be a disruptive force are welcome and should lead the way for others to follow suit and forswear violence and disorder at next month's conventions.

Mr. President, I ask unanimous consent that the editorial, "Year 1968 in Chicago," from the Washington Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, July 17, 1968]

YEAR 1968 IN CHICAGO

Yesterday was an anniversary worth recalling, if not exactly deserving of celebration. Four years ago, on July 16, Senator Barry Goldwater issued his famous dictum at San Francisco: "Extremism in the defense of liberty is no vice . . . moderation in the pursuit of justice is no virtue."

It was the ultimate in cruel political jokes, partly because the epithet "extremist," with which his opponents had taxed his following, was little more than a euphemism for a number of occupations, all of which have perfectly good names of their own—violence, disruption, destruction. The Senator was thus able to convert the loose charge into his little homily and—in a rare burst of prescience and irony—to suggest that it could probably be subscribed to by those racial and political groups whom it seemed most to offend, since they too appeared to be escalating the forms of their protest against what they regarded as injustice. It is not entirely a tribute to Senator Goldwater's astuteness to say that time has borne him out on this point.

Violence—verbal and physical—has become alarmingly common among those who plan to converge on the Democratic Convention this August in a variety of official and unofficial capacities. The city of Chicago, with

its tinderbox ghetto stretching out the length of the route to the Convention hall, could prove the worst possible setting for an influx of marchers and protesters among whom must be numbered many who desire the most disruptive possible result. According to those planning the Convention, much of the menace is now in the hearsay stage. There are rumors of plans for everything from peaceful protest marchers to political assassination. Doubtless those who have called for a demonstration of one million persons for Senator McCarthy have a relatively peaceful episode in mind. But the Senator has done well to discourage the effort. It is still not entirely obvious that the Convention should be held in Chicago at all, but if there is a chance of holding it there without painful consequence, Senator McCarthy and Vice President Humphrey may hold the key.

Senator McCarthy, as a candidate, can hardly be asked further to forfeit the tactical advantage of a mobilized body of supporters outside the hall without receiving a balancing advantage. Reportedly, the discussions between his representatives and those of the Vice President on Convention arrangements have been fitful and inconclusive. They should get down to business now. There is much that could be worked out in terms of gallery seating, numbers of persons permitted on the floor, credentials contests, platform representation and the like that could defuse the terrific hostility building up for Chicago. This would enable the Senator publicly and forcefully to appeal to his followers to permit the convention to proceed without any but customary political disorder and to accept the result of those proceedings. Considerable effort and concession would be required on the part of the Vice President's supporters too. But it would be more than worth it. For as the present tension builds, the Democrats and their principal candidates would seem to have three choices: a city and a Convention hall so heavily guarded as to resemble an armed state, a shameful and dangerous outburst of disorder, or an embarrassing retreat from Chicago to the less explosive setting of Miami.

Actually, the still unsettled communications strike in Chicago provides a face-saving rationale for the last of these prospects, and it should not be put out of mind. It could be the lesser of three evils. Certainly the Democrats should consider it so unless their candidates—ideally with the help of those Negro leaders who were most responsive to Senator Robert Kennedy's voice—make a concerted effort now to prevent the Democratic Convention of 1968 from earning a place in history as Senator Goldwater's revenge.

The political and racial grievances which underlie so much of our newer disorder could hardly have been assuaged by the programs he had in mind for the country—on the contrary. But it is true that as political 1968 moves toward the climatic conventions, it is Chicago—the scene of potential bloodshed and riot—that must most disturb those who never cared for the meaning of Senator Goldwater's dictum, whether applied to Right or Left, black or white.

SUCCESS OF THE VISTA PROGRAM

Mr. HARRIS. Mr. President, there is great interest on the part of American youth in meeting the challenge our country faces at home. In the last 12 months, Volunteers in Service to America—VISTA—has dramatically exceeded its recruitment goals, producing more volunteers than its small budget can sustain. VISTA offers these young people an opportunity to constructively channel their concern for America's great social crisis while giving a year of their lives in service to their country.

I ask unanimous consent to have printed in the RECORD an article confirming the success of the VISTA program, published in the New York Times of July 4:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 4, 1968]

VISTA GAINS RECRUITS AS THE PEACE CORPS LAGS—OUTGOING CHIEF OF VOLUNTEERS SAYS YOUTH IS CONCERNED WITH DOMESTIC PROBLEMS

(By Joseph A. Loftus)

WASHINGTON, July 3.—The Peace Corps recruiting lag apparently reflects a sharpened awareness of challenges to be met at home rather than a cooling of youth's desire to serve.

Some of the evidence supporting that analysis is the surge of applicants to join Volunteers in Service to America (VISTA), a program of the Office of Economic Opportunity. The program has more volunteers than its budget can absorb.

VISTA is in many respects the domestic counterpart of the Peace Corps. Its volunteers not only deal with poverty and ignorance, as Peace Corps volunteers do; their task is complicated as well by racial discrimination.

"It's a great generation," said William H. Crook, VISTA's retiring director, discounting reports that disillusionment with the Vietnam war had "turned off" young people with respect to all Government service.

"This is the first year we have not only met but exceeded our goals," Mr. Crook said. He is about to go overseas himself as Ambassador to Australia.

RESULTS OF POLLING

The Peace Corps' recruiting goals for the coming year are lower than they were a year ago, and the agency foresees greater recruiting expense to meet the lower goals.

For this condition the corps has borne a variety of criticisms, but professional polling on the campus suggests that the causes of the lag lie beyond the Peace Corps control.

The chief causes appear to be a combination of antagonism toward Vietnam policy and a looking homeward at events such as Negro protests and the slaying of the Rev. Dr. Martin Luther King Jr.

"The pendulum of history has swung from Africa, Asia and Latin America to Harlem, Hough and Appalachia," said a VISTA official. "It is becoming increasingly difficult for college students to concentrate on youth in Malawi when they know children are starving in Mississippi, or to focus on Latin-American problems when Puerto Ricans and Mexican-Americans are rejected by racists in our own land."

Hough is a Negro section of Cleveland.

Jack Hood Vaughn, the Peace Corps Director, while not conceding any long-term decline in volunteers during recent testimony before the Senate Foreign Relations Committee, said that in travelling around the United States he found "a detectable move for isolation."

"An increasing number of people are saying, 'since we do not or have not been able to solve our own problems, perhaps we had better focus more attention and resources on our own problems at home before we continue our effort to save the world,'" he said.

These comments stirred the interest of the committee chairman, J. W. Fulbright, Democrat of Arkansas, who is a friend of the Peace Corps and a foe of the war. He wanted to know if the war was the basic cause of a change in attitudes of the American people.

"I think," replied Mr. Vaughn, "they are just as disturbed by the racial problems in our society. Certainly, the people I talked to are, the volunteers are, and more especially in the past few weeks. . . ."

COLLEGE STUDENTS' VIEWS

The exchange took place at a hearing on April 23, just 19 days after the murder of Dr. King in Memphis.

A recent Gallup Poll of college students, conducted under contract with the O.E.O., reported:

"Racial problems are regarded by half of the nation's college students as the greatest single social challenge their generation will face between now and the year 2000.

"When students who expressed an interest in either VISTA or the Peace Corps were asked which program they would prefer, both programs scored equally well.

"A majority of those students whose parents' annual income exceeds $10,000 indicate a preference for the Peace Corps, while a majority of students whose parents earn less than $10,000 prefer the VISTA program.

"Students who expressed an interest in serving VISTA and the Peace Corps were asked why they preferred the program they did. Three-fourths of the VISTA group said that 'it helps the United States first.' Among those who preferred service in the Peace Corps, the largest single reason mentioned was that it provided 'an opportunity for travel.'"

The Louis Harris polling organization, under a contract with the Peace Corps, asked some questions inspired by published criticisms of the corps. After a poll of a thousand college seniors last December, it reported:

"The Peace Corps itself has been successful in not equating its existence with support or opposition to Vietnam. By 64 per cent to 18 per cent, the seniors reject the idea that: 'If you really are strongly opposed to the war in Vietnam, the Peace Corps is probably not interested in having you join.'"

INEVITABLE FALLOUT

However, the Harris organization also concluded that "the inevitable fallout of an anti-government position on the war has had an impact on attitudes toward the Peace Corps.

"One-quarter of the seniors agree that 'a lot of people who might have joined the Peace Corps a few years ago are staying away because of their opposition to United States policy in Vietnam,'" it said.

There are contributory causes to the Peace Corps's recruiting problem.

"One of them is age," said the Harris report. "The Peace Corps has been in existence for seven years; and, even with all the good things it has done, it would be difficult to say the world situation has greatly improved in this period."

"While no fault of the Peace Corps, of course, this sense of discouragement is bound to gradually dim the excitement and high expectations for an organization that began with such high hopes for change."

VISTA is not yet four years old. It has room for only 5,000 volunteers, less than a third of the Peace Corps capacity, but it has been getting more applications than the Peace Corps.

VISTA put 1,900 persons into training in June. Its June applications were 120 per cent over last June's.

"We can fill all our scheduled training classes through next December with no new applications at all," a VISTA official said.

INCOME MAINTENANCE

Mr. SYMINGTON. Mr. President, the Wall Street Journal of July 10 contains an editorial concerning the inflationary aspects of guaranteed income programs.

It spotlights the perceptive contributions made to the discussion of this issue by the distinguished senior Senator from Wisconsin.

Once again, Senator PROXMIRE has demonstrated that acumen he so frequently manifests in, although does not confine to, economic affairs. He has discerned the irony of a situation in which the Government takes action to restrain the inflationary pressures seen to confront our economy, while considering measures to improve the welfare of our underprivileged citizens by means of income maintenance programs which have an inflationary bias.

I ask unanimous consent that the editorial, entitled "Guaranteed Annual Inflation," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

REVIEW AND OUTLOOK: GUARANTEED ANNUAL INFLATION

A little discussed, but important aspect of the proposals for a guaranteed annual income or negative income tax is the powerful inflationary punch they pack.

One man who is giving considerable thought to the problem is Senator William Proxmire, Wisconsin Democrat and Chairman of the Joint Economic Committee, and he finds no little irony in it. Here is Congress enacting the most restrictive fiscal measure in years (the tax-increase-spending-cut combination), designed to inhibit demand and increase unemployment, while simultaneously moving toward a massive, inflationary income maintenance program.

What has happened is roughly as follows:

Practically everyone who has looked at the existing welfare set-up finds it a horrendous mess, super-costly, disorganized, overlapping, over-bureaucratized, often reaching the wrong people instead of the right ones, disruptive of family life. In addition, it is demeaning and demoralizing for the recipient.

Consequently some form of income maintenance, especially the negative income tax, is growing in favor in and out of Congress. In effect the idea is to give poor people a regular handout, much like Social Security payments, without all the present fuss. In theory it would supplant most or all current welfare programs.

At the same time almost all economists, liberal or conservative or whatever, believe the nation needs a tighter fiscal policy now to slow demand and retard inflation. Unfortunately, reducing demand and hence production, if that is the effect of the new tax-spending law, automatically means a rise in unemployment.

Enter the negative income tax, and the effort to slow demand would be largely undone. All persons would be assured of an income equivalent at least to a low-wage job; they would be effective consumers, they would swell demand, but they would produce nothing. In short, a highly inflationary state of affairs, as though we didn't have enough inflation as it is. To aggravate inflation, it might be noted, is no way to help the poor.

Senator Proxmire says he has so far found no one able to suggest a persuasive or workable way out of this dilemma. Well, we have no solution either, but maybe a couple of comments are in order.

It seems plain that Congress should proceed cautiously on any moves toward a guaranteed annnal income, and not only because of the inflationary impact.

We think it dubious principle indeed for the State to pay people whether they are willing to work or not; certainly it has little to do with the American tradition. In all probability, in many cases it would remove permanently any incentive for the individual to try to become a useful citizen and a productive member of society.

As a practical matter, the negative income tax or whatever the form of income maintenance would be unlikely to replace much of the existing welfare system. Politicians being what they are, the chances are that it would be just piled on top, or underneath, the unedifying array of welfare arrangements now in operation.

Especially in view of that likelihood, more thought should be given to reforming the welfare apparatus before taking the radical step of guaranteeing annual income. What is wanted in an acceptable welfare program? Basically, just two things, it seems to us: To get the aid to those genuinely in need and not to those who regard welfare as a way of life. And to do it in such a way as not to break up families.

Surely such real reforms should not be impossible for people so ingenious they can think up the negative income tax and other devices. If it could be done, it doubtless could be done at a fraction of the cost of the present mess, thus minimizing the inflationary push of huge Government spending and deficits.

Perhaps it is asking too much; perhaps the politicians are too immobilized, the bureaucracy too barnacled to make honest reform anything but a pipe-dream. But it seems a more rewarding approach, and more generous to those who through no fault of their own can't make their way in the world.

In any event, Senator Proxmire does a service in calling attention to the inflationary bias in the guaranteed annual income notion. That bias merits a lot more examination.

CAPTIVE NATIONS WEEK—1968

Mr. HRUSKA. Mr. President, in July 1959, Public Law 86–90 was enacted, providing for the designation of the third week in July as "Captive Nations Week." The President was authorized and requested by that law to issue a proclamation each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

Last week, by proclamation, President Johnson designated the week beginning July 14. Regrettably, the need for a proclamation still exists, but sadly the language used in this proclamation falls far short. We must remember that the Communist governments in Eastern Europe obtained their evil power through the Russian military presence. But, unlike the 1959 proclamation of General Eisenhower—which cited the "imperialistic and aggressive policies of Soviet communism" and "Soviet-dominated nations"—the 1968 proclamation mentions neither Russia nor China. This is irony to say the least for Communist aggression and attempts at world domination created the need for a Captive Nations Week and make it necessary today.

Another significant omission is the mention of the individual captive nations. My point is made by Public Law 86–90 where one of the reasons for observing Captive Nations Week is because "the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others."

If the essence of freedom is found in the ballot box, and I think it is, then we should not forget that none of these governments dares hold free elections. Certainly we can applaud recent changes which may indicate improvements in the lives of these captive peoples. We can hope for more. But freedom is what is wanted and freedom is what is denied. Whatever liberal reforms are occurring, they are not enough. In any event, such reforms can hardly be regarded as epidemic.

Despite the repeated evidence that the Communist aim is to dominate the world and despite the agreement among Communists that our democracy and its institutions must be destroyed, now is viewed by some as an auspicious time for "bridgebuilding."

These bridges are being built on the wrong road. Our Nation, as the leader of the free world, should not travel on any road which leads in the direction of, first, any increase of respectability or status for the Communist masters; or, second, any increase in their strength; or, third, any assistance in overcoming their industrial and agricultural difficulties and inadequacies; and fourth, any action which tends to maintain the status quo of the captive nations.

This road leads only to increased Soviet military strength and a greater capacity for holding others in bondage.

There is a right road on which to travel, if we desire progress for the cause of the captive nations and all that it implies. We should travel that road on which we would help create and sustain several constructive, helpful actions, some of which are these:

First. Sincere and sustained efforts to create and maintain attention and concern of the free world to the captivity of nations and its true implications.

Second. A realization that east-central Europe now plays, as it always will, a very important role in the struggle against communism and for peace.

Third. Informing by all available means the people of those captive nations that we really understand and care, and that within all legitimate means we will help.

The observation of Captive Nations Week recognizes the yearnings of the captives. We must give them our support, for their aspirations are rightful. We are talking about 100 million people. Our accommodations and concessions are not going to improve their position unless a quid pro quo is received.

The events of the past year have not brought true freedom and independence to any of the captive nations. Millions of people in the Communist-dominated countries continue to be enslaved by their Soviet masters. They are still shackled under the tyranny and oppression which they have known for so many years. Their individual liberties and fundamental rights as human beings are still being denied. And, the United Nations Charter which proclaims the principle of "equal rights and self-determination of peoples" continues to be flaunted.

We also know that the spirit of these

oppressed peoples has not been broken. They have not given up their hopes for freedom. An expression of the deep desire of man for freedom can be seen in Czechoslovakia, and the new Government has apparently responded to some extent. The aspirations of the youth of Poland, however, were smothered with repression and retaliation.

In order to preserve this spirit and keep alive this spark of resistance, these people of the captive nations must know that they have not been abandoned. They must have the reassurance of the free world that they have not been written off as a lost cause. To this end, Captive Nations Week has made a vital contribution. It serves as an excellent means of focusing the world's attention on the plight of these peoples and gives the American people an opportunity to manifest their concern. I am proud to play a part in its observation this year.

THE PRESIDENT'S NOMINATIONS TO THE SUPREME COURT

Mr. HARRIS. Mr. President, a Washington Evening Star editorial of June 27 has made it clear that "close association with a President is not a disqualifying factor in judicial selections." As a matter of fact, in at least one respect it may be a plus factor, for the President personally can evaluate certain of the nominee's qualifications, whereas with strangers he must rely entirely on the judgment of others.

Similarly, the Star discounts the argument that a "lameduck" President should not name a new Chief Justice. The lameduck argument is a specious one, of course, when we realize that the President has almost 7 months to serve. In a similar sense, a President is "lameduck" immediately following his second inauguration since there is a constitutional limitation of presidential tenure to two terms. Would anyone reasonably argue that no Presidential appointments should be made during a second term?

In my judgment the President should be commended for his quick action to avert having a less than full complement of Justices on hand next fall and spring to handle the business of the highest court in the land. For the Senate to do less would be a dereliction of duty. The Committee on the Judiciary is to be commended for its prompt scheduling of the nomination hearings, so that nominees Fortas and Thornberry may be judged on their qualifications, and the nominations reported as soon as possible to enable the Senate to work its will.

I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEW COURT LINEUP

The choice of Judge Homer Thornberry to fill the vacancy on the Supreme Court is the crucial factor in the judicial changes announced yesterday by President Johnson. For while the "liberal" justices in any event will retain a 5-to-4 majority, the evolvement of Judge Thornberry's philosophy will have an important bearing on the direction which the court takes in the future.

He is described in some news reports as a "liberal." But this is not a very meaningful term. During his 15 years in the House, he was close to Speaker Sam Rayburn, which hardly suggests that he will go charging off into left field when he takes his place on the high bench.

A son of parents who were deaf mutes, he worked his way through high school, college and law school. He was a member of one of the best law firms in Houston. As a man and as a judge, he is highly respected by the lawyers who practiced before him. He has had five years of judicial experience and has served as a district attorney. The reports that come to us reflect enthusiastic approval of this nomination.

All of this has to be tempered with a certain reservation. A Solomon could not predict where a man will come down when he takes his place on the Supreme Court. But our hope and belief is that Judge Thornberry will travel the middle road, eschewing both the right and the left. If so, the fact that he has long been a close personal friend of Lyndon Johnson is not something to be held against him when the Senate votes on his confirmation.

The elevation of Justice Abe Fortas, also a close friend and adviser of the President, has brought forth complaints of "cronyism." But the fact of a close association with a President is not a disqualifying factor in judicial selections. What counts is the quality of the nominee.

No one can fault Fortas on the grounds of intellectual qualification or legal competence. One question, however, is whether he has the temperament that many look for in a man who, as Chief Justice, is to stand as a symbol of even-handedness. There are some who think of Fortas as an "operator," and, depending upon the meaning one attaches to the term, there may be some basis for that. The fact remains, however, that John Marshall, now regarded as one of the great chief justices, was very much of an "operator" in his bitter political feuds with Thomas Jefferson. So perhaps hasty judgment on this score should be avoided.

We do not put much stock in the contention that a "lame duck" President should refrain from naming a new Chief Justice. And we say this in spite of the fact that Lyndon Johnson, as majority leader, did not hesitate to bottle up many of Eisenhower court appointments until after the 1960 election was over. If there is a fight over his confirmation, Fortas is most likely to run into trouble because some senators feel very strongly that he misled them; that he testified one way on interrogation of criminal suspects during the hearing on his nomination to the bench, and then made a 180-degree turn after donning the judicial robes. At this juncture, however, it seems unlikely that this will be a formidable barrier to his promotion.

This leaves the problem of how to evaluate the performance of Earl Warren during the 15 years he presided over the court as Chief Justice.

It has been said that he stepped down at this time to avoid the risk that Richard Nixon might be elected in November and then appoint his successor. We prefer not to believe that any such shabby political consideration was the motivating factor. In his letter to the President, Warren gave the weight of 77 years as the sole reason for his decision to retire. If there was any other reason, it probably was that the court under his direction had been steered into a stormy controversy that could hardly fail to prejudice its work in the future. One item of evidence in support of this was the overwhelming vote by which Congress passed the omnibus crime bill, and the President's unwillingness to veto it. This measure was not, as some have charged, an assault on the court. But it certainly reflected a serious and deep-seated discontent with some of the decisions by the "Warren Court."

It most surely does not follow, however, that the final judgment of the 15 Warren years will be an unfavorable one. It is too early at this stage to say. Our view is that some of the rulings should be modified, and we hope they will be. But the greatest advances made by the court, notably in such areas as racial equality and political reform, are most unlikely to be condemned when time's verdict is rendered.

FIRST SETTLEMENT IN LAS VEGAS VALLEY

Mr. CANNON. Mr. President, I invite the attention of the Senate to a celebration held in Las Vegas last week commemorating the first settlement in the Las Vegas Valley.

Honored were the memories of 30 pioneers sent to the harsh and barren Las Vegas Valley by the Church of Jesus Christ of Latter-day Saints to carve a settlement out of the scorching desert.

Their labors brought forth the establishment of one of the most dynamic areas of the United States.

As the Las Vegas Review-Journal editorialized:

It is a time for pausing and marvelling at the courage and conviction of those men who made a wild valley bear fruit more than 100 years ago.

I ask unanimous consent that the Review-Journal editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORMONS COMMEMORATE FIRST LAS VEGAS SETTLEMENT

In the summer of 1855, Las Vegas Valley was a barren, hot and unfamiliar place. But there was water here if men had the courage and stamina to look for it. And crops would grow if men had the ambition and the faith to plant them.

Such was the beginning of a settlement in this valley. The men, 30 of them, were Mormons sent out from Salt Lake City. They were charged with the responsibility of establishing a fort in this harsh land. They were also told to teach the Indians and plant the crops. The crops were vital for their survival and part of their plan to provide a station where weary travelers might find food and rest.

The Las Vegas Springs provided water and the meadows of the lower valley offered a natural site for farming and building. Each man took two-and-a-half acres for himself and began to cultivate it. By the fall of 1855 the settlers were rewarded with corn, melons, pumpkins and squash. The fort was nearly completed and the Indians were friendly. A community had been established.

This week Las Vegas' 30,000 Mormons, some of them possibly descendants of those 30 pioneers who settled in the valley, will mark the anniversary with four days of activity sponsored by the five stakes of the LDS church in the Las Vegas Valley.

A musical entitled "Promised Valley" will be offered Wednesday through Saturday at 8 p.m. at the Las Vegas High School auditorium to commemorate the arrival of the Mormons in the valley. A "Pioneer Parade" is scheduled Saturday at 10 a.m. along with other events.

It is a celebration worth joining. It is a time for pausing and marveling at the courage and conviction of those men who made a wild valley bear fruit more than 100 years ago.

THE INTERNATIONAL WHEAT TRADE CONVENTION

Mr. DOMINICK. Mr. President, the International Wheat Trade Convention was approved by the Senate on June 13, 1968. I voted against it. We were assured by the administration that it was in the international interest and that the increased minimum prices for world trade in wheat and wheat products would improve the earnings of American farmers.

Immediately following the Senate action, the Secretary of Agriculture in implementing the arrangement, set minimum and maximum prices for American wheat and established an import tax which he called an inverse subsidy to take effect whenever the domestic price paid by an exporter was less than the minimums. He also announced a reduction in acreage allotments by 13 percent and diversion payments for farmers planning less than their acreage allotment.

It is now just about a month since Senate approval and administration implementation of U.S. participation under the International Wheat Trade Convention. While this is a short time to reach any firm conclusions, those of us who had reservations cannot help but be dismayed by what has taken place in that brief period.

Domestic prices have declined so far that export taxes are payable on the four kinds of wheat for which the Secretary of Agriculture announced minimum prices on June 13. The export tax due because of this decline in prices is $0.25 for Soft Red Winter wheat, $0.19 for Hard Red Winter wheat, $0.09 for West Coast White, and $0.06 for Dark Northern Spring. At a time when our trade balance is in serious trouble, rather than using our competitive advantage, we are taxing exporters to bring prices up.

The effects of the arrangement have made themselves felt clearly in marketing. Wheat shipments were 580,880 tons in the second week of June; 182,690 tons in the third week of June; and 116,000 in the last week of June. In the first week of July, according to the Southwestern Miller:

> Not a single cargo of wheat was sold via Gulf-Atlantic, except to India, and workings via Pacific were confined to Japan, the ranking buyer for dollar payment. Even parcel sales of wheat for cash payment were in exceedingly limited number.

Flour sales in the last week of June, at 245,916 hundred weights, were up somewhat over the preceding 2 weeks, but still only a fraction of the 1,099,000 consummated in the first week of June.

The budgetary cost of the acreage reduction and diversion payments proposed in connection with this program are not available, but can be expected to be substantial. The Department of Agriculture, in hearings before the Senate Agriculture and Forestry Committee in April 1968, estimated the total net price support and related expenditures for wheat and wheat products to be $539.5 million for 1968 and $470.3 million for 1969, as compared with the $47.1 million incurred in fiscal year 1967. This was before the decision to restrict acreage and use diversion payments in implementation of the International Wheat Trade Convention.

Mr. President, this is hardly a logical and a productive way to promote commercial exports to help our balance of payments, or to reduce our budgetary deficits; or for that matter, it is hardly a charitable way of helping less developed countries and the hungry people of the world.

GEN. G. P. DISOSWAY

Mr. BYRD of Virginia. Mr. President, Gen. G. P. Disosway retires from his position as commander, Tactical Air Command, Langley Air Force Base, Va., U.S. Air Force, on July 31. On that date General Disosway will close a long and distinguished career in the service of our Nation.

I deem it a privilege to introduce the highlights of the general's career into the CONGRESSIONAL RECORD. Such illustrious service deserves the appreciation of the Congress and the heartfelt thanks of this Nation.

General Disosway's 35 year military career began when he graduated from West Point in 1933 and within a year was a qualified pilot in the Army Air Corps.

In less than 9 years after leaving West Point he was a full colonel at the age of 32. His assignments have taken him across the country and back again, south of the border and to China and Europe. He has held important assignments such as director of training for the Air Force and commander of the Flying Training Air Force, now called Air Training Command. For a time he served as senior Air Force member of the Department of Defense Weapons Systems Evaluations Group.

General Disosway was named USAF Deputy Chief of Staff for Operations and headed the famed "Disosway Board," which helped to enhance air-ground joint operations, with emphasis on the flexibility of tactical airpower.

It was during this same period that General Disosway was instrumental in bringing the versatile McDonnell F–4 Phantom tactical fighter into the Air Force inventory.

In 1963, General Disosway received his fourth star and was appointed commander-in-chief, U.S. Air Forces in Europe. During the 2 years he served in this capacity he left his distinctive mark on both United States and NATO air operations in the European Theater.

In 1965, General Disosway assumed command of Tactical Air Command in a period of intense activity. Many TAC units and hundreds of personnel were being sent to Southeast Asia. Replacements had to be trained for aircrews and support activities. The lessons of this new war learned in air combat had to be examined, evaluated and applied by TAC. The command grew as weapons systems, new equipment and streamlined management techniques were introduced.

Every effort was made to give the air forces in Southeast Asia what was needed. TAC met this challenge without degrading its continuing and all-important mission to answer any other contingency that may occur anywhere in the world where U.S. interests require tactical air support.

TAC responded to these demands and responsibilities with professional know-how and calm appraisal—drawn from its commander.

Mr. President, I desire to commend this extraordinary, able, and effective officer. I regret that the Air Force and the Government are losing the services of such an outstanding man. I wish him continued success.

THE NATION WANTS ACTION ON THE SUPREME COURT APPOINTMENTS

Mr. PASTORE. Mr. President, in the matter of Presidential appointments to the Supreme Court I have already pressed the point that we of the Senate should be permitted to proceed without undue delay to our right and duty to "advise and consent."

Not only in this Senate but in the editorial columns of newspapers the country over there comes the demand that the Senate should speedily work its will on the nominations by President Johnson of Justice Abe Fortas to be Chief Justice of the United States and Justice Homer Thornberry to be Associate Justice of the Supreme Court.

Evidence comes from the Sunday, July 14, 1968, issue of my hometown newspaper, the Providence Sunday Journal—an independent newspaper.

> A shameful performance—
>
> The editorial terms the "stalling"—
>
> A shameful performance that reflects discredit on the nation's most distinguished legislative body.

I was curious to see how this editorial state of mind is reflected the country over. I have culled more than 30 editorials expressing impatience with what they call—among other names—"stalling tactics" — "phony issues" — "filibuster without merit."

It seems to me that these editorials constitute an indictment of our current behavior that we should be concerned to correct.

And—so that they may speak their own wisdom and warning—I ask unanimous consent that these editorials be printed in full text at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PASTORE. Mr. President, some of the newspapers do not commit themselves with respect to the two nominees. However, there is virtually unanimous agreement that undue delay in the constitutional process of "advise and consent" would be intolerable.

We in the Senate cannot abdicate our constitutional duty to pass on these nominations any more than President Johnson could abdicate his constitutional duty to fill Supreme Court vacancies.

It is the right of a Senator to reject if his conscience so dictates. We would not and could not deprive him of that right. But it is not reasonable that any of us should be deprived of our right—or

detoured from the opportunity to consent or not consent.

Let us give heed to a thought from the Trenton Trentonian of June 29:

To cloak such an obvious power play in phony rationale is beneath the dignity of Congress.

Let us have a mind for our dignity—and our duty.

EXHIBIT 1

[From the Providence (R.I.) Sunday Journal, July 14, 1968]

SHAMEFUL PERFORMANCE

Those members of the Senate judiciary committee who oppose the nomination of Justice Abe Fortas to be the new Chief Justice have carried their opposition to ludicrous lengths.

One whole day of testimony was consumed in a nit-picking debate over whether there is or isn't a vacancy on the court to be filled. The thrust of the argument by Sen. Sam J. Ervin, D–NC, is that no vacancy exists—and, hence, no nomination can be made now—because Chief Justice Warren hasn't yet stepped down.

The Chief Justice has announced his retirement but has agreed to stay on, at the President's request, until a successor is confirmed. This is a customary procedure. It has been followed time and again in precedent cases, as Atty. Gen. Ramsey Clark patiently explained.

Nevertheless, this is a point that lends itself to hair-splitting arguments, and Senator Ervin is not averse to splitting hairs when it suits his purpose. He was ably assisted in this performance by others on the committee, notably Senators Thurmond and Hruska, who are equally cool to the Fortas nomination.

After exhausting the possibilities in this inconsequential debate, the committee proceeded to the business of calling witnesses.

One would have thought that if the committee was truly seeking expert guidance it might have called in the spokesmen for bar associations, the deans of reputable law schools, or others qualified by experience in the field of law to pass judgment on the pending nomination.

But the committee had other notions. Among its first witnesses were W. B. Hicks Jr., a spokesman for the far-right Liberty Lobby; Kent Courtney, a New Orleans publicist and pamphleteer who for years has been promoting ultra-conservative causes; and Marx Lewis, chairman of the Council Against Communist Aggression. These gentlemen, no doubt, are pleased to have the use of the Senate committee's forum, but does anyone seriously imagine that they are qualified to throw useful light on the pending matter?

One can conclude only that the Senate committee is stalling. It has displayed not the slightest interest in examining the qualifications of the nominee, which is its immediate task. Instead, it is putting on a show, wandering off into by-paths, and using up time—presumably in the hope that if it delays long enough, the session will drag to an end before the Fortas nomination can be brought to a vote.

All in all, it is a shameful performance that reflects discredit on the nation's most distinguished legislative body.

[From the Trenton (N.J.) Trentonian, June 29, 1968]

CRONYISM: A PHONY ISSUE

It was a foregone conclusion that when President Johnson elevated Abe Fortas to chief justice of the Supreme Court and named Federal Judge Homer Thornberry as an associate justice that the old and rather tired issue of "cronyism" will be raised.

Both appointees are by all standards eminently qualified for the high court, but they also happen to be former political associates of the President. Fortas was a longtime adviser to Mr. Johnson and Judge Thornberry was the man who succeeded Johnson in the House of Representatives. The President referred to him frequently as "my congressman," an expression that some critics have taken to imply possession in the most disreputable way. But how many ordinary people refer to their congressmen in a like manner?

Senate Republicans have promised to filibuster, if necessary, to block the confirmation of Fortas and Thornberry on the assumption—or excuse—that the President is attempting to pad up the federal payroll with his old buddies.

It is a logical assumption that presidents generally name men to high office in whom they can place great trust and whose capabilities they are well aware of. President Eisenhower, you'll recall, larded up the high councils of government with his poker pals on the same assumption.

We doubt that the Republicans involved give a tinker's dam whether Fortas and Thornberry are pals of the President. What they really have in mind is to stall confirmation until a new, and hopefully conservative, president comes in next January; then they might be able to place "our man" on the bench.

Of course, this is acceptable practice. Why shouldn't the Republicans make such a move? If the shoe were on the other foot, the Democrats would be equally devious. But to cloak such an obvious power play in phony rationale is beneath the dignity of Congress.

[From the Wilmington (Del.) Journal, June 28, 1968]

ORDER ON THE COURT

The arguments seem to be that a chief justice of the United States has no right to resign near the end of a president's term and that a president with only seven months to serve has no right to appoint a man to as important a post as head of the Supreme Court.

The first is most fashionable among those who are fond of attributing ulterior motives to Chief Justice Earl Warren. The second belongs to those who resent President Johnson exercising the power of the presidency as if it were still his.

When one gets down to it, there's more sour grapes than "God Save the Republic" about both arguments. If Associate Justice Abe Fortas is qualified for a seat on the court, as the Senate agreed he was, why is he not qualified to be chief justice? As for Judge Homer Thornberry, aside from a relative national anonymity, what especially disqualifies him for appointment as associate justice?

The most obvious fault of each is that he is a friend of Lyndon Johnson. This is a special liability because of the timing of the appointments, but it is foolish to argue that the appointments should await the election of a new president so that they will be more representative of the will of the people. If such a mandate is critical to selection of Supreme Court justices then, perhaps, the entire court should resign every four years.

It is lamentable that the President's personal friendship with his two appointees may increase the disrespect some Americans feel for the court. Fortunately, the court is sufficiently insulated to make public approval pleasant but inconsequential. Grounds for disqualification have to be firmer than that.

And those who view with alarm the President's actions overlook one other important factor in their anguish over this "blatant political manipulation." They cannot predict with certainly, anymore than can the President who appoints him, the future attitudes or interpretations of a Supreme Court Justice.

One need look no further than President Eisenhower's appointment of Associate Justice Potter Stewart, a member of the "conservative" wing of the tribunal. He just wrote the opinion ruling that open housing has been the law of the land since 1866.

[From the San Antonio (Tex.) Light, June 28, 1968]

L. B. J.'s CHOICE

President Johnson's new Supreme Court appointments honor two of his closest personal associates, both of whom are imbued, like the President, with a deep sense of social conviction.

Justice Abe Fortas, who moves up to Chief Justice, is a former Washington attorney whose friendship with the President dates from New Deal days.

Appeals Court Judge Homer Thornberry, a former Texas Democratic congressman, is an intensely humane man who has also been close to the President for much of his public life.

Thus the President had intimate knowledge of the two men before he made the appointments. This knowledge obviously went into the naming of Mr. Fortas as an associate justice of the court three years ago.

Few who have known Justice Fortas in his public and private life will doubt that he possesses full qualifications. The legal community in particular, in Washington and elsewhere, is honored by his elevation to the highest seat of jurisprudence in the land.

President Johnson observed that he consulted with Democratic and Republican leaders before making the appointments.

In reply to some Republican objections to Supreme Court appointments by what was termed a "lame duck" President, we can only say, with some weariness, that the President has the right and duty to make such appointments.

The objections were ill-advised and in poor taste.

[From the Cincinnati (Ohio) Enquirer, July 2, 1968]

THE VACANCY GAMBIT

The American people are neither instructed nor amused by the aimless little controversy about whether there exists any Supreme Court vacancy to which President Johnson may appoint a successor.

Sen. Sam Ervin (D., N.C.) is at the forefront of those who have maintained that, since Chief Justice Earl Warren worded his resignation to become effective "at such time as a successor is qualified," there is no vacancy for President Johnson to fill.

Curiously enough, the Justice Department, in seeking to clarify the issue, produced some correspondence between President Johnson and Senator Ervin and his North Carolina colleague, Sen. B. Everett Jordan. "Due to the fact that Judge Wilson Warlick has announced his retirement," Senators Ervin and Jordan told the President, ". . . a vacancy now exists in that office."

The Justice Department could see no difference in the Federal District Court judgeship, to which the Ervin-Jordan letter referred, and the case of Supreme Court vacancy created by Chief Justice Warren's resignation. Neither can we.

Senator Ervin and others are entitled to challenge the qualifications of Associate Justice Abe Fortas, whom Mr. Johnson proposes to elevate to Chief Justice, and of Judge Homer Thornberry, whom Mr. Johnson has nominated as an associate justice. But the challenge should be made frontally, not through legislative tricks.

[From the Sacramento (Calif.) Bee, June 28, 1968]

FORTAS, THORNBERRY ARE GOOD CHOICES

So far as anyone can tell at this time, the appointments of Associate Justice Abe

Fortas as chief justice of the United States as successor to Chief Justice Earl Warren and Federal Appeals Judge Homer Thornberry as an associate justice on the Supreme Court, preserve the liberal and distinguished character of the court.

Fortas is an able lawyer and has supported the trend of the court toward speaking for the Constitutional guarantees for justice for the individual and social progress. He becomes the first Jew to be nominated as chief justice, thereby reflecting President Lyndon B. Johnson's policy to break through insidious taboos with courageous "firsts." It also was Johnson who named the first Negro to the high court in the person of Associate Justice Thurgood Marshall.

Thornberry had a distinguished record, as a liberal and as a humanitarian, as a member of Congress before his appointment to the appeals bench by former President John F. Kennedy. He assisted these causes as a ranking member of the powerful House Rules Committee.

A rump court of Republicans who anticipate the GOP will win the presidential election seems bent upon opposing Fortas' confirmation on the ground he is being named by a lame duck president. California's U.S. Sen. George Murphy was among these myopic partisans.

These took the position that since Johnson is not going to run again, the choice of the next chief justice should be the prerogative of the next president. This is a purely political suggestion. Since the Amendment was passed forbidding presidents to serve more than two terms every American president henceforth will be something of a lame duck during his second term.

Would it be in the interest of the nation that all these presidents in their second term be stripped of their powers? To ask the question is to expose the untenable stand of the few who would cripple the executive office.

Both Fortas and Thornberry have the distinguished support of Senate Republican minority leader Everett Dirksen of Illinois. Dirksen said he has "no personal reservations" about either. Likewise, Senate Democratic majority leader Mike Mansfield of Montana reminded all that the Senate once approved Fortas in the original appointment and of Thornberry said: "He is a fair man, a good man, a decent man."

These appraisals by the No. 1 Republican and No. 1 Democrat in the Senate count for much more than the corridor sniping of myopic colleagues who want to make the appointments a thing of political profit.

[From the Charlotte (N.C.) News, June 27, 1968]

THE NEW CHIEF JUSTICE

It is pointless to speculate whether Abe Fortas will make, if his appointment is approved by the Senate, a good or a bad chief justice of the United States. The history of the court shows that such appointments often are the seedbeds of great surprise, not least for the Presidents who make them.

It can be said of Fortas that he has more tangible qualifications to become chief justice than he did to become an associate justice. When he ascended to the court in 1965 the most important entry in his public record was that he had been a long-time friend and confidant of the President. His work on the court since has been eminently respectable, if something short of arresting.

There is no reason why Johnson should have held back and allowed his successor to replace Earl Warren on the high bench. Mr. Johnson is still President, and presidents have to meet their responsibilities as they arise. In any case the debate often had less to do with the propriety of a lame-duck appointment than with the debaters' respective hopes for a "liberal" or "conservative" successor to Warren. And before the court needs one or the other of those it needs a judge of depth and superior perception who can lead it out of the confusion into which it has fallen. If Fortas has yet to prove that he is that man, he also has yet to prove that he is not.

[From the Garden City (N.Y.) Newsday, June 28, 1968]

A NEW CHIEF JUSTICE

Amid rumblings of opposition from Republican senators, President Johnson has designated Justice Abe Fortas as the new chief justice of the U.S. Supreme Court to succeed Earl Warren. He has also named an old Texas friend, Homer Thornberry of the Circuit Court of Appeals, to succeed Fortas as a justice. Both men conform with the present "liberal" orientation of the court.

As to the qualifications of Justice Fortas there can be no argument. He is a thoughtful and compassionate scholar of long tenure in government. He came to Washington as one of the energetic young lawyers recruited by Franklin D. Roosevelt to bolster the New Deal. In later years he has been a highly-esteemed corporation lawyer, who believes that big business—when conducted responsibly—can coexist with big government. Thornberry, in common with Justice Fortas, has the approval of the American Bar Association.

Some threats of filibuster over the confirmation of these two men have come from certain Republican members of the Senate. The threats should be reconsidered. The President has the right to name his own appointees to vacant positions. He is President until the end of his term, and cries of "lame duck" are in reality cries of sour grapes. Former Vice President Nixon, unfortunately, has leaped into the argument. First he insisted that a new President should select a new chief justice. When he learned the appointment had been made, he again repeated his views. He should have kept his silence.

The consternation among some Republicans seems to be based upon the fear that the court will continue to be "liberal" instead of conservative as a result of the appointments the President has made. Those who cry loudest downgrade the dispassionateness of justices of the Supreme Court. Felix Frankfurter, in his time with the New Deal, was vilified for his so-called left-wing views; after he became a justice, he was criticized for his conservatism. The appointments are within the right of the President to make. The merits of those appointed will be best judged after enough opinions are given to establish their contributions to the trends of thought.

[From the Greenwood (N.C.) News, June 29, 1968]

THE NEW CHIEF JUSTICE

President Johnson, who has made few obvious appointments during his term, did the obvious—and quickly—when he nominated his old friend and counselor, Mr. Justice Abe Fortas, to be U.S. chief justice.

Friend or not, it would be difficult to imagine a better qualified man for the nation's highest judicial office—in fact the only judicial office named in the Constitution. The chief justiceship is no place for a man of stuffy, predictable or parochial views, and none may be expected from Justice Fortas.

It is a good place for this Southern-born son of a poor immigrant family whose learning, intelligence and character have brought him to successive places of eminence at the bar, in federal agencies, and as an associate justice on the court—where Mr. Fortas agreed to go only under heavy pressure from Mr. Johnson.

Mr. Fortas is certainly a man of liberal views. He seems to concur largely in the so far vigorous interventions of the court in issues of national policy. Some do not like that, but the Supreme Court is not going to retreat from its key position in adjusting the nation to a new age.

But Mr. Fortas is also a hard-headed man with an intensely practical approach to constitutional law. When he argued as chief counsel for Clarence Earl Gideon, in the landmark right-to-counsel case, he keyed his argument to the avoidance of further abrasiveness between the Supreme Court and state courts, rather than primarily to the Sixth Amendment. His opinions and dissents on the court reflect a healthy skepticism of doctrinaire trustbusting and of bureaucratic arrogance.

It is doubtful, as we suggested the other day, that the senators who threaten to fight Mr. Fortas' confirmation will manage to block it. Both the Democratic majority leader and the Republican minority leader now favor it.

The anti-Fortas faction's case is nebulous to begin with. Mr. Johnson, they contend, is a "lame duck" and should defer to his successors. But he is not yet technically a lame duck, and neither precedent nor constitutional provision bars the "midnight" appointments of a President, or hints that they are in the slightest degree improper.

Mr. Fortas, others contend, is a "crony" of Mr. Johnson's. The word itself is a poor one, a loaded one in fact. If Justice Fortas is a crony, so was Roger B. Taney a crony of Andrew Jackson's. But that did not prevent his becoming a great chief justice who, installed as the backer of strong presidential powers, closed his career resisting what he felt to be constitutional usurpations by President Lincoln. Felix Frankfurter, by the same token, was a "crony" of FDR's. But he became a great justice, and a conservative at that.

Finally, the opposing senators contend that Justice Fortas is, like his predecessor, a "judicial activist." In fact his career on the court is as yet too brief to establish such a pattern. Nobody knows of him, any more than of other judicial appointees, what ultimate course his thought will take. New issues point new directions for judges, and the issues change.

In sum, the case for Mr. Fortas seems to us as strong as the arguments against confirmation are weak. His rejection by the Senate would be sad, and it is most improbable.

[From the Asheville (N.C.) Citizen-Times, June 29, 1968]

LYNDON JOHNSON REVAMPS THE COURT

As usual, President Johnson has ignored appeals from Republicans and from the ultra-conservative critics and has made his Supreme Court appointments. This time, precedent and logic appear to be on his side.

Perhaps Abe Fortas, who was named to succeed the retiring Earl Warren as Chief Justice, is another "liberal" and maybe the President was indulging a bit of cronyism in naming a Texas friend, Judge Homer Thornberry of the Fifth Circuit Court of Appeals, to the vacant judgeship. Even so, he exercised his Presidential right and constitutional duty, presumably with some concern for the national interest.

Despite the loose use of the term in recent references, Lyndon Johnson is not a "lame duck" President in the sense that he has been defeated at the polls and is merely sitting out an interim period until his successor is sworn. Johnson has six more months to serve, not to sit.

Conceivably, his new Court appointments could be blocked by a coalition of Republicans and Southern Democrats. But such obstructionism will serve no predictable purpose if, for example, Hubert Humphrey is elected President.

Virtually the same Senate that confirmed the appointment of Fortas as Associate Jus-

tice will now merely be asked to approve his "promotion." Judge Thornberry is reputedly a competent jurist, whatever the implications of his Texas background.

Promptly and properly, Lyndon Johnson has made his choices. Unless the Senate can produce convincing evidence that the two men are unqualified, the solons ought to respect the Presidential judgment.

[From the Durham (N.C.) Herald, June 30, 1968]

APPOINTMENTS TO SUPREME COURT

President Johnson has used the opportunity presented by the retirement of Chief Justice Warren to name perhaps his closest friend on the Supreme Court chief justice and to name another to the high bench.

Abe Fortas, nominated to be chief justice, was Mr. Johnson's attorney when the President's political career was in jeopardy: in the Texas Democratic senatorial primary in 1948, he had a lead of only 87 votes; his opponent had secured a court order to keep Mr. Johnson's name off the ballot in the general election. Mr. Fortas, as Mr. Johnson's attorney, obtained from Justice Black a reversal of the order. Mr. Johnson's name appeared on the ballot, and he was elected to the Senate.

Homer Thornberry, nominated to be associate justice in Justice Fortas' place, succeeded Mr. Johnson in the House of Representatives when the President ran for the Senate and has long been a personal and political intimate.

While appointments of such close associates inevitably provoke charges of "cronyism," in the case of these nominations the charge is offset by the qualifications of the two men for the positions the President proposes for them. Justice Fortas, before his appointment by President Johnson to the high bench, was recognized as one of the top lawyers of the nation. On the bench, he has demonstrated his great learning in the law. Judge Thornberry, nominated by President Kennedy to be a federal district judge in Texas and by President Johnson to the Fifth Circuit Court of Appeals, has demonstrated judicial capacities of high quality.

If Chief Justice Warren resigned at this time to enable President Johnson to appoint a sucessor of similar views to his, his hopes have been realized. Justice Fortas has usually been aligned with Chief Justice Warren in opinions on cases before the Supreme Court. Judge Thornberry, though described as a Southern moderate, may be expected, from the decisions he has rendered on the Circuit bench, to interpret the Constitution similarly to Justice Fortas and the retiring chief justice.

There will be senators who will oppose both appointments because they disagree with the political philosophy and constitutional interpretations of Justice Fortas and Judge Thornberry. Presently, however, the opposition involves not so much these points as it does the propriety of the appointments by a President who has only a little more than six months in office. While we recognize the reality of this opposition, we do not think it a valid ground for opposing the nominations. The end of a court term is a fitting time for a justice to retire, as Chief Justice Warren did; and it is the responsibility of the President to nominate successors.

The caliber of these appointees argues strongly for their confirmation. The President could have appointed persons of much less ability and far less integrity. We may not agree with all the opinions of any particular justice. We may feel that the "Warren Court" has not always demonstrated the judicial restraint desirable. But we do have confidence that men of ability and integrity will decide in the best interests of the people, consistent with the Constitution. And we have confidence in the ability and integrity of Justice Fortas and Judge Thornberry.

[From the Hickory (N.C.) Record]

FORTAS' BACKGROUND GOOD

President Lyndon B. Johnson has accepted the resignation of Chief Justice Earl Warren of the U.S. Supreme Court, and nominated Associate Justice Abe Fortas to fill the vacancy.

The nomination requires confirmation by the U.S. Senate. Regardless of the fact that the Republican leadership had threatened to block any nominee that President Johnson might submit, it is assumed an organized, partisan fight will now be waged to prevent the elevation of Justice Fortas.

The candidate for Chief Justice is a native of Memphis, Tenn., having been born there June 19, 1910. He earned his A.B. Degree from Southwestern College, at Memphis, in 1930, and then went on to obtain his LL.B. Degree from Yale University in 1933. He accepted membership on the Yale University Law School Faculty, and in July 1935, was married to Carolyn Eugenia Agger. He was appointed Undersecretary of the Interior and served in that capacity from 1942 to 1946. He then practiced Law in the District of Columbia 1946 to 1965, at which time he was nominated by President Johnson for membership on the U.S. Supreme Court Bench, and the nomination was confirmed, enabling Justice Fortas to take his seat on October 4, 1965.

If the nomination of Justice Fortas to become Chief Justice is confirmed, he will have the distinction of being the first Jew ever elevated to the highest judicial post in the United States.

Although we have searched the records painstakingly, we have found nothing but praiseworthy reports covering the life and achievements of Justice Fortas.

As noted at the beginning of our comments, the GOP had warned as soon as it was rumored that Chief Justice Warren was contemplating resignation, an organized effort would be made to prevent President Johnson from exercising his constitutional duty in attempting to fill the vacancy.

Now that Justice Abe Fortas has been duly placed in nomination, the only arguments that the Republican leadership can use in attempting to block his confirmation, is the fact that he is a Democrat and a Jew. He has certainly demonstrated his ability as a talented practicing attorney, as an educator, and as a jurist whose voting record since be joined the High Tribunal in October, 1965, is an open book.

[From the Fayetteville (N.C.) Observer, June 29, 1968]

THE FORTAS NOMINATION

Both United States senators from North Carolina, Sam Ervin and B. Everett Jordan, have adopted a "wait and see" attitude toward President Johnson's nomination of Supreme Court Justice Abe Fortas to succeed Earl Warren as the court's chief justice. Perhaps all North Carolinians should follow the example of their senators in this matter.

Certainly anyone who looks at the high court developments realistically will agree with Senator Ervin that no real fault can be found with the "lame duck" aspect of the matter, meaning that the new court appointments were made by an outgoing President of the United States. Unfortunately the American system works in such a way that the President is President until he leaves office. And it is difficult to see how anyone, much less a group of U.S. senators, could seriously suggest that President Johnson hold up on this matter and let whoever is elected to succeed him make the court changes.

Undoubtedly there is some tendency in some places to jump to the conclusion that in picking Justice Fortas, President Johnson has just named another younger Earl Warren to head the court. Fortas' future performance, however, cannot be pre-judged or accurately predicted on the basis of his few legal opinions concurring in some "liberal" decisions of the court. As Senator Ervin himself put it, Justice Fortas "has not written any of the earth-shaking opinions," presumably meaning such things as the school desegregation decisions the Warren court handed down in the fifties, the "one-man, one-vote" decree and rulings protecting the rights of defendants in criminal cases.

It is entirely reasonable to think, of course, that Fortas as chief justice isn't going to get busily at work trying to turn back the clock. Nothing in his background suggests that. The truth of the matter is, though, that the decisions of the high court under Warren's leadership are now behind it and are the law of the land. Different, perhaps even more difficult, problems will confront the high court in the years ahead. And no one is capable of predicting with certainty the kind of record the court would write under Justice Fortas.

[From the Salt Lake City (Utah) Tribune, June 28, 1968]

JUDGE COURT APPOINTMENTS ON MERIT ALONE

In nominating Justice Abe Fortas to be Chief Justice of the United States, President Johnson has attempted to assure that the liberal, venturesome and creative character of the "Warren court" will be continued.

As was to be expected, considerable criticism has been voiced by opposition party members over the Fortas appointment and that of Judge Homer Thornberry to Mr. Fortas' seat. Opposition is based on the inadvisability of a "lame duck" president appointing a chief justice in the waning months of his term. So far none is based on the appointees' ability and in fact even persons against the appointments concede they are good ones.

It is unfortunate that Chief Justice Earl Warren decided to step down after Mr. Johnson announced he would not seek reelection. But it is too much to expect a sitting President to pass up an opportunity to name a chief justice and an associate justice. It likewise is too good an opportunity for the opposition to make as much political mileage as possible out of the circumstances. But when the dust has settled and Mr. Fortas and Mr. Thornberry are confirmed by the Senate the country will be no worse off because they were named by a President with less than seven months to serve.

As an associate justice Mr. Fortas did his homework well and demonstrated a knack for asking questions that reveal the pivotal issues in a case. He is, according to The New York Times, "persuasive in presenting his views when the court discusses cases in private before voting." As chief justice he will have the task, and the advantage, of presenting his position first and his gift of persuasion will have a greater opportunity to effect the others' views.

During his three years on the court Mr. Fortas usually lined up with Mr. Warren on important issues. But the two men are vastly different personalities. Mr. Warren is a "grandfatherly type" whose idealism has been described as "almost naive." But Mr. Fortas is a tough, sophisticated advocate who has built a solid reputation as a good justice by hard work and intelligence. In the process he has rubbed some of his fellow justices the wrong way.

This quality of judicial and personal sternness may be the new appointee's weak spot, too. As chief justice he must play the role of healer among the other eight justices and

be able to "marshal the court" so as to preserve its prestige and power. His past history suggests that if a personality change is needed to accomplish this task it will be smoothly and efficiently done.

We trust that opponents of the appointments will have their say and cast their votes quickly. If, as leaders of both parties now predict, the appointments will be confirmed no good will come of protracted debate and maneuvering solely for the sake of making trouble. Senators should not forget that the important thing is to secure a capable chief justice and associate justice. If the appointments are good ones, and we believe they are, then it doesn't really matter that a "lame duck" made them.

[From the Boston (Mass.) Herald-Traveler, June 27, 1968]

FORTAS AND THORNBERRY

In nominating a new Chief Justice and Associate Justice to the U.S. Supreme Court, President Johnson has served history as well as friendship. While both Abe Fortas and Homer Thornberry have enjoyed long and close associations with the President, both also—Fortas especially—bring more than friendship to their new appointments. Moreover, Fortas would become the first Jewish Chief Justice and only the third to be promoted from within the Court.

Justice Fortas' credentials are of the first order. Before joining the Court in 1965, he fashioned an outstanding career as a lawyer, handling several controversial and unpopular cases and building a reputation as a champion of individual liberties and equal protection under the law for all. His service on the Court has not diminished that reputation. Other lawyers regard him as brilliant, articulate, a perfectionist.

Considered generally part of the liberal element within the Supreme Court, Justice Fortas obviously would not be the first choice as Chief Justice of those who have been critical of the Court under Earl Warren. But their criticism of Justice Fortas has been tempered by his obvious devotion to the law and his condemnation of those who would go beyond it.

In an address in Boston in 1965, Justice Fortas said, "We must establish, without exception, the rule of law. We cannot tolerate lawlessness or the conditions which bring it about." Recently he spoke out against certain of the student actions at Columbia University. On another occasion he said: "The advocacy of civil rights does not require or justify the abandonment of all decency." He has advocated adequate education, training, employment, recreation and discipline to prevent the young from growing into lawbreakers.

Justice Fortas does not see the Supreme Court as an aloof entity handing down arbitrary decisions, but as a force very much involved in the mainstream of American development. "Law is a profession dealing with human beings, not an automated business," he has said. His respect for the law blends with a respect for human dignity.

If President Johnson's nominations are confirmed, the essential character of the Warren Court is likely to be preserved, for Judge Thornberry, too, is regarded as a liberal. But as a Southerner, he should be more acceptable at least to those critics of the Court who are from the South. Thornberry is, of course, less well known than Justice Fortas, but he would come to his new post with five years of judicial experience and 15 years of legislative experience in the U.S. House. It was President John F. Kennedy who appointed him a federal district judge in 1963, from which position he was elevated to the appeals court in 1965.

From the standpoint of merit, then, the Senate would have difficulty finding cause to reject Mr. Johnson's nominees. And, while some discontent is still being voiced in the Senate about the practice of having crucial vacancies in the judiciary filled by a lame-duck President, it is doubtful that any organized move to block the appointments on these grounds will be mounted.

Herbert Hoover and every President since him, with the exception of Mr. Kennedy, has named a Chief Justice. Mr. Johnson, up to yesterday, had made only two appointments of Associate Justices, a number equal to President Kennedy's in his abbreviated tenure in the White House. Dwight Eisenhower appointed four Associate Justices, Harry Truman three, Franklin Roosevelt eight.

Today the average age of the Justices is 65, and rumors of additional retirements soon are common. Mr. Johnson's successor almost certainly will have opportunity to leave his own imprint on the Supreme Court.

[From the Louisville (Ky.) Courier Journal, June 28, 1968]

APPOINTMENTS MR. JOHNSON IS ENTITLED TO MAKE

President Johnson, it now seems clear, would like the Supreme Court to continue in the Warren tradition. In appointing Associate Justice Abe Fortas to succeed Chief Justice Warren and nominating a little-known but liberal-minded Texan, Homer Thornberry, to take Justice Fortas's place. Mr. Johnson is doing what he can to assure that the Court will continue in the path laid out by its present majority.

The President cannot be unaware that his critics are calling this an example of cronyism and Texas partiality. Less biased observers will grant that a man who has Justice Fortas for a crony has a powerful intellect and an incisive legal talent on his side. Judge Thornberry, the Texan, also has more going for him than his native state. His record in the House was quiet but good. As a Federal Appeals Court judge for the Fifth Circuit his record worthily echoes much of that of the present Supreme Court.

A LAME DUCK BY CHOICE

The movement to block confirmation of the two men on the ground that they are lame-duck nominations, is not praiseworthy. The President is a lame duck by choice and he has six more months in office, so the charge that he is somehow not playing fair by not leaving the vacancies for his successor is also unfair. The next Supreme Court session will begin before the next administration takes over. Much of its docket for the next term is already decided. To leave it headless until January and then subject to a possible sharp change in leadership is neither wise nor necessary.

Chief Justice Warren is now anathema to many Republicans and conservative Democrats. But it should not be forgotten that he was the appointee of a conservative Republican President and is a Republican himself. What this means is that in interpreting the Constitution, politics is the least relevant consideration. The present Court will survive in history as one which restored the rights of the individual in his relations with the state. This restoration is not yet complete and Mr. Johnson, undoubtedly with the approval of Justice Warren, is seeking to appoint men who will help, not hinder, the completion of a great task.

For this he is to be praised. He is quite likely to run into opposition, first from the Senate Judiciary Committee, which has more than its share of rigid conservatives, and then from people with reasons of varying sincerity for disapproving of the activism of the present Court and the timing of Justice Warren's resignation. Mr. Johnson should still be able to command sufficient support from men who respect the present Court and its achievements to win his point. If he does, not, the nation will have lost more than the critics will have gained.

[From the Des Moines (Iowa) Register, June 28, 1968]

NEW COURT APPOINTMENTS

Justice Abe Fortas, President Johnson's choice to replace Earl Warren as chief justice of the United States, is a distinguished lawyer who has fitted in well in his first two years on the high court. He is best known for his work in a variety of civil liberties cases, and as something of a political fixer and a friend of President Johnson's.

Judge Homer Thornberry of the U.S. Circuit Court of Appeals, President Johnson's choice to replace Fortas, is a former congressman, which should stand him in good stead in the coming fight over confirmation. Thornberry, a lifelong resident of Austin, Tex., was in Congress from 1948 to 1963, much of the time on the formidable Rules Committee, where his record was one of moderate conservatism. On the federal bench, as district court judge since 1963, circuit judge since 1965, his record is considered liberal.

We are not impressed by the justice of the plaint of Republican Senators George Murphy, Robert P. Griffin, John Tower, Everett Dirksen and others that Chief Justice Earl Warren at 77 should have waited another seven months before resigning to avoid giving the right of selection to "a lame duck president." President Johnson is fully President as long as he is in office.

Besides, whoever is President in 1969 is likely to get his share of appointments: Justice Hugo Black is 82, Justices John M. Harlan and William O. Douglas are both 69 and in poor health. All three are unwilling to step down now.

Republican grumbling is based largely on the thought that Richard Nixon might be the next President and might name much more conservative persons than Johnson. Since any nominee must be approved by a majority of the Senate, ordinarily following approval by a majority of the Senate Judiciary Committee, the grumbling has an operative side.

Three of the five Republicans on the 16-member committee are among the grumblers: Senators Dirksen, Strom Thurmond and Hiram L. Fong. Three of the Democrats on the committee have been bitter critics of the recent Supreme Court: Senators James Eastland, John McClellan and Sam J. Ervin. With two more recruits, these six could block committee action. Dirksen isn't sure he wants to go that far.

President Johnson, however, said he had consulted ahead of time with party leaders in Congress and with committee chairmen. He is confident the nominations will go through. They should.

[From the Des Moines (Iowa) Register, June 29, 1968]

DANGERS OF AN UNDERMANNED COURT

President Johnson acted responsibly in sending his choice of Abe Fortas as chief justice and Homer Thornberry as associate justice to the Senate immediately on the heels of Earl Warren's resignation. The Senate should act responsibly by considering confirmation of the nominees without delay and deciding the nominations strictly on their merits.

The Supreme Court is in recess until October, but that does not mean the court is idle. A steady flow of cases comes to the high court throughout the year. The justices must examine the requests for appeal and determine which merit review. The court traditionally announces the disposition of a large number of cases at its opening session in October. It is able to do this only because the justices have been studying review requests during the summer recess.

The justices also are occupied during the recess with cases which were granted review during the recently-completed term of court.

Briefs in the Des Moines armband case, for example, were recently submitted to the court. The case is expected to be argued before the court in the fall. Study of briefs in this and many other cases is part of the preparation for the opening of the new court term.

Citizens who take their claims for justice to the Supreme Court are entitled to the consideration of them by the full court. Participation of one more judge in a case can be crucial to the outcome, as evidenced by the frequency of 5–4 decisions. The favorable votes of at least four justices are required for the Supreme Court to review a case. The absence of a judge from the bench can substantially lessen chances for particular cases to win review.

President Johnson could assure the presence of a full court in the fall by waiting for Congress to go home and then making recess appointments. That would be most undesirable. The last recess appointee, Justice Potter Stewart, served on the bench for a year before being confirmed by the Senate. Justice Stewart participated in hundreds of cases while the Senate watched his performance. Commenting on the effect of this on the independence of the judiciary, a Yale University law professor observed at the time:

"During these probationary months Stewart must feel the Senate looking over his shoulder and appraising his every act. No man in his position could be immune from some temptation to avoid rocking the boat, to play it safe, and to adjust action to anticipated Senate reaction. Nor could a man of integrity and perception, and Stewart is that, be unaware of a countervailing inclination to lean over backwards to avoid that temptation and confound critics eager to discern real or fancied trimming of sails."

The U.S. Supreme Court needs to be at full strength under the leadership of a chief justice if it is to function effectively. The Senate should assure the proper functioning of the court by acting promptly on the President's nominations and avoiding the prospect of recess appointments.

[From the Des Moines Register, July 11, 1968]

LAME DUCK NOMINATIONS

Opponents of President Johnson's nomination of Abe Fortas as chief justice have complained that a "lame duck" President should not make such an appointment. Several Republican senators said the President should let the nomination be made by his successor after the election.

The lame duck argument strikes us as a lame argument.

Every President is a lame duck, in a sense, at least in his second term, since he cannot be re-elected for a third term. In another sense, no President is a lame duck unless he has been defeated for reelection. The term originally applied only to an officeholder serving between his election defeat and the inauguration of his successor.

There are numerous precedents for choosing a Supreme Court justice in the waning months of a presidential term—beginning with John Adams' nomination of John Marshall after Adams, a real lame duck, already had been defeated in the election of 1800.

The senators who have objected to the nominations of Abe Fortas as chief justice and Homer Thornberry as associate justice have approved 11 judicial appointments by President Johnson since he announced he would not run again. These appointments were approved unanimously by the Senate.

The argument of the Republican group, including Senator Jack Miller of Iowa, that the vacancy should not be filled until the country, by its choice of President, shows which direction it wants to go, seems to imply that the electorate should take part in the selection of Supreme Court justices.

This argument is not merely lame; it shows a misconception of the place of the courts in the three-branch federal government. The method of selecting justices is intended to keep the courts free from partisan politics. Nomination by the President and approval by the Senate are designed to divorce judicial appointments from current tides of popular opinion.

Senator Bourke Hickenlooper of Iowa has taken the correct view, we think, of this senatorial responsibility. He said he would vote on the nomination of Fortas and Thornberry on the basis of a study of their qualifications.

The President has a duty to fill Supreme Court vacancies when they occur, since the work of the court must go on, and Chief Justice Warren said he wanted to retire. To postpone appointments until next January would be to throw the nominations into the political race this year. There would be danger of political bargaining for appointments to the court. Senator George Smathers (Dem., Fla.) said it very well in a Senate speech endorsing Fortas and Thornberry.

"Who of those among us who love the law and respect the courts and hope that the public at large will share this attitude can conscientiously condone the prospect that the appointment of a chief justice of the United States could become a political pawn in this summer's political conventions, a bargaining tool among candidates for high office, a vote-getting device in the November election? To follow such a course could well involve the Supreme Court in bitter partisan controversy to the lasting detriment of this great institution and our system of constitutional government."

We agree.

[From the Des Moines Register, July 13, 1968]

DELAY TACTICS ON COURT NOMINEES

Senator Sam Ervin (Dem., N.C.) argued the other day that the Senate need not examine the qualifications of President Johnson's nominees for the Supreme Court because no vacancy exists. Ervin, who was supported by three Republican members of the Judiciary Committee, said there was no vacancy until Chief Justice Earl Warren set a date for his retirement. Warren wrote the President that he would retire "effective at your pleasure."

The "no vacancy" contention seems to be another delaying tactic. It has no more substance than the argument that Johnson is a "lame duck," because he said he wouldn't run for re-election, and should not make a nomination to the court.

Ervin apparently hasn't much confidence in his own "no vacancy" plea, for he said in the same hearing that he intended to question Justice Abe Fortas closely about his qualifications to be chief justice.

The Southern Democrats and Republicans who would like to see a turn back from the liberal philosophy of the present Supreme Court are trying to think up ways to give the nomination of the next chief justice to President Johnson's successor. They hope that Richard Nixon will be elected and would name a conservative jurist.

Their real objections are not to procedure but to Abe Fortas as chief justice and to Homer Thornberry as associate justice. Forthright opposition would be more admirable.

Attorney General Ramsey Clark pointed out that judicial appointments had been made in the "no vacancy" manner scores of times and appointments in the executive branch perhaps thousands of times. It surely appeals to common sense for the chief justice to remain in office until a successor is named.

Ervin said the President could tell Warren to go ahead and retire and settle the matter. But if he did, the objecting senators might be able to find other ways of holding up Senate action, perhaps by filibuster, which has been threatened. This would leave the court without a head and tend to throw the issue into national convention politics.

This political maneuvering about the court appointments does not enhance the dignity of the Senate. It is time for the senators to get down to the business of examining the qualifications of the nominees and voting on them. That is their responsibility, and it is what the country expects of them.

[From the Kansas City Times, June 28, 1968]

THE PROPRIETY OF FILLING HIGH COURT VACANCIES

It is fair enough to criticize any President's nominations to the Supreme court or to any other high position. The senatorial obligation of confirmation not only permits such criticism but also raises the possibility of rejection by the Senate if it so decides. But it is quite another thing—and a very political thing, it seems to us—to suggest that a President, when his term in office is definitely limited, should not fill such vacancies.

In this instance, President Johnson's term is limited by his own choice. He has not been defeated at the polls and thus, in the classical sense, is not a lame duck. We won't quibble about that, however. The fact is that Mr. Johnson presumably has another six months in office and during that period the business of government must go on, and the court must go back into session. Is it proper to suggest that the presidency should, in effect, be paralyzed, unable to make decisions on the assumption that in November the people will deliver a new mandate?

We think not. And this is by no means intended as a defense of the President's appointments. Rather, it is a defense of his right to appoint, even though he is soon to leave office. Were a chief executive to fail to exercise that right, he would in effect be confessing to White House paralysis of his remaining months. There are problems enough when an incumbent is serving out his final term without this type of restriction.

Yet that is what the Republican senators who have protested the appointments are suggesting. The cynic would say that they might have reacted otherwise had the incumbent been a Republican. And they are in part prompted by the hope that the next President will be a Republican. He might be, but that is quite irrelevant to the vacancies of June, 1968, on the court. The next President might also be a Democrat, or, for that matter, he might be George Wallace, but let's not talk about that.

What is at issue here is the right of any President to fill the vacancies that exist during his administration. Perhaps Mr. Johnson could have talked Chief Justice Warren into serving until January. But either he did not try, or Warren was set on retirement. He is 77 years old, and no man could criticize him for wanting to rest.

The situation having been created, the President could not afford to sit back and do nothing. It would have been an abdication of his own responsibility to lead while he is still the leader.

[From the Houston (Tex.) Post, July 1, 1968]

LITTLE CHANGE IN SUPREME COURT

The resignation of Chief Justice Earl Warren, a liberal Republican, was hardly timed to please more conservative members of his party, who have been among his sharpest critics, but they were far off base in suggesting that it was improper for President Johnson to make appointments to the court only a few months before retirement from office.

There is no legal or historical basis for these complaints, and they must be evaluated simply as political campaign statements, intended to reflect confidence on the part of

the conservative Republicans that they will capture the presidency in November.

To accept the principle that a President should not name a member of the court after it becomes definite that he will continue in office for only a fixed period would mean that no President could make any appointment during his last four years in office since the Constitution now limits all Presidents to two terms.

Chief Justice Warren said in his letter of resignation that he was motivated by his age. He is 77. He would be less than human, however, only if he was not interested in seeing to the extent that he is able, that the court continues to move along the path it has charted during the past decade and a half under his administration.

There is at least a possibility that the next President will be a man less sympathetic than President Johnson to the present orientation and philosophy of the court. President Johnson's goals for the nation generally have been compatible with those of "activist" members of the tribunal. The Great Society he would like to build would be one in which there would be equality of opportunity and justice for all.

In selecting a long-time friend, Associate Justice Abe Fortas, to succeed Chief Justice Warren and another old friend, Justice Homer Thornberry of the Fifth Circuit Court of Appeals to fill the vacancy created by the advancement of Justice Fortas, the President made it unlikely that there will be any radical change in the present policies and thinking of the court. Both men are able and well qualified.

During the past 15 years, the court has undertaken to meet its responsibilities as a co-equal branch of the federal government by daring to move into areas where action seemed long overdue and where the other two branches, for one reason or another, had failed to act. The impact of some of its major rulings has been little short of revolutionary.

As a result, the court has become one of the most controversial in history, and its decisions aimed at seeing that equal justice is extended to all have angered those who think that the only function of the federal judiciary should be to preserve the status quo as of some time in the past.

Chief Justice Warren, a former prosecutor and attorney general as well as governor of California, who was named to the chief justiceship by President Dwight Eisenhower in 1953, has had to bear the brunt of this anger and this criticism personally by reason of his position as administrative head of the court, even though he had only one vote on a court that included eight other strong-minded men.

The Court became known as the "Warren Court," and there have been shrill cries for his removal. It would be understandable if at his age he should feel that he had received enough of this abuse. But there is no indication that this had anything to do with his decision to retire. Convinced firmly of the rightness of his opinions, he never paid the slightest attention publicly to the demands for his removal.

It seems much more likely that he was motivated by a philosophy he expressed in a 75th birthday interview, when he said: "I believe that the strength of our system in this country depends on the infusion of new blood into all our institutions."

Since his health was good, he could choose the time of his retirement, and he chose the present when he could be reasonably sure that his successor would be a man with views somewhat like his own.

[From the Racine (Wis.) Journal-Times, June 28, 1968]

FORTAS GOOD APPOINTMENT

In elevating Abe Fortas to the post of Chief Justice of the United States, President Johnson has chosen well. Fortas has had a successful and even brilliant career at the bar, and he has the experience of serving as an associate justice.

Justice Fortas is an old friend and one-time personal attorney for the President. But this is not a valid criticism of the appointment. Johnson tends to place in high office men he has known and trusted. But Fortas' other qualifications stand by themselves: his ability as a trial and appellate lawyer, as a teacher of law, and as a hard-working justice.

Nor are we impressed with the argument of some Republican senators and Richard Nixon that President Johnson should not have made the appointment at all. Lyndon Johnson did not resign as President last March; he simply served notice that he would not seek a new term. His mandate as President runs until Jan. 3, 1969, and all the functions and duties of the office devolve upon him until that date.

Among those functions *and duties* is appointment to fill vacancies on the federal courts. Johnson would be derelict in his duty if he failed to fill the vacancy left by Chief Justice Warren's retirement and especially so if he did so, as Nixon and the Republican senators suggest, for political reasons.

As the Supreme Court takes its coloration from the chief justice, we expect the Fortas Court to bear the stamp of the highly professional lawyer and liberal who now will head it. It will not be a mere continuation of the Warren Court, because of the apparent differences of the two men. The importance of the court in today's America is apparent from the impact that the Warren Court has had on our time, and it is equally important that its leader be a man of high quality and integrity, which Abe Fortas is.

[From the Fairmont (W. Va.) Times, June 27, 1968]

THE COURT NOMINATIONS

People in these parts first began hearing about Abe Fortas when he was general counsel for the Bituminous Coal Division in the Department of Interior back in 1939. This was the government agency which had taken over when the National Bituminous Coal Division was abolished by presidential fiat.

He was then regarded as one of the up-and-coming young lawyers of the New Deal era and was reputed to be one of the few who could get along with curmudgeonish Harold Ickes, in whose domain he rapidly advanced. His star has steadily risen ever since his early days in government, and is only now approaching its zenith.

President Johnson's nomination of Mr. Justice Fortas to be Chief Justice of the United States climaxes a career which encompassed not only a brilliant performance for various federal agencies but a successful and rewarding stint in the private practice of law. The senior member of the firm with which he was associated before he went on the bench is Thurman Wesley Arnold, a onetime dean of the West Virginia University College of Law, and the law partnership is well known in this state.

As chief justice, Fortas is expected to carry on in the liberal traditions set by the retiring Earl Warren. Although he commanded high fees for his legal work, he served as counsel without charge in a Florida case which led to a landmark decision by the Warren Court that an accused in state court must be furnished with an attorney.

Less well known is President Johnson's other nominee, Judge Homer Thornberry of Texas. A former congressman from the Austin district, Thornberry was named to the Fifth Circuit Court of Appeals by President John F. Kennedy. Presumably he meets all the legal requirements and has the additional advantage of being an old presidential friend.

The nation would stand aghast if certain Republican senators carried out their threat to block the nominations of Fortas and Thornberry until after a new President takes office Jan. 20. Not only would the country be left without its highest judicial officer for a period of nearly eight months, but the Supreme Court itself would be tossed into the arena of wardheeler politics.

The Senate should speedily confirm Mr. Justice Fortas and Judge Thornberry in their new assignments, giving picayune politics the short shrift it deserves.

[From the Denver (Colo.) Post, June 30, 1968]

ANTI-FORTAS FILIBUSTER LACKS MERIT

Some Republican senators now are talking of a filibuster against confirmation of Abe Fortas as chief justice of the U.S. Supreme Court.

Maybe, in an election year, they can put together a filibuster team on a purely political basis. But we should think any responsible Republican senator will be uncomfortable about joining such a venture, because on the merits of the nomination they have no case.

Fortas is simply outstandingly qualified for the position of chief justice—not only because of his own background but particularly in view of the kind of cases the court is facing—and anyone who knows Fortas, and the court's docket, knows it.

The Supreme Court is now moving into a significantly different era from the one in which the Warren court has operated. As far ahead as human vision can penetrate, there are no earthshaking constitutional issues to be adjudicated—nothing on the order of school desegregation or one man one vote redistricting.

What the court does face are two other types of case which call less for constitutional innovation and more for incisive legal analysis and pragmatic wisdom.

First, there will be for some time to come the need to spell out applications of many of the Warren court's landmark decisions to specific situations.

Second, just beginning to arrive at Supreme Court level is a new type of case arising from the provision of various services to specific groups of citizens by a benevolent but highly bureaucratic government.

These cases, now arising in the fields of education and welfare but probably soon to come also from health service disputes, commonly ask this sort of question: Where is the line to be drawn between services the state may bestow on certain classes of people at its discretion, and those services the state must provide to all citizens, as a matter of constitutionally-guaranteed equal treatment, if it provides them to any?

One tricky example: how much and what kind of educational aid may the government provide to children in non-public schools?

We think most GOP senators would agree that there is no man better qualified than Fortas to lead the court through the intricacies of such problems.

For nearly 30 years, Fortas has been advising corporate clients and government officials on how to cope with intricate problems arising from conflicts between laws and bureaucratic regulations adopted pursuant to those laws, or conflicts between the laws and regulations and people's (or corporate) needs. In so doing, Fortas has earned a towering reputation for coupling incisive legal analysis of a problem with eminently pragmatic wisdom as to what to do about it.

It has helped, of course, that he has known personally practically everyone in high office during those years. But the reason he knows them is not only that he is a nice guy, but that his advice is so highly valued by all who know him.

Those people include, we're sure, many of the senators who may now be asked to filibuster against his nomination. We find it

hard to believe that any Republican senators of stature will do so.

We know that they shouldn't.

[From the Cleveland (Ohio) Plain Dealer, June 27, 1968]

COURT WOULD KEEP LIBERAL TAG

The liberal tag usually attached to the United States Supreme Court presumably will remain if President Lyndon B. Johnson's nominations affecting that body are confirmed by the Senate.

Abe Fortas, associate justice who has been nominated to succeed retiring Chief Justice Earl Warren, has been on the libertarian side of things, a member of the five-man majority that sometimes has troubled certain members of Congress, strong for civil rights and the right to dissent.

Justice Homer Thornberry of the Fifth Circuit Court of Appeals, was a member of the Texas legislature who succeeded Mr. Johnson in the United States House of Representatives when Mr. Johnson went to the Senate. Thornberry first was appointed to the federal bench by President John F. Kennedy. On his way up to nomination to the Supreme Court, Thornberry—like Fortas—has worn the "liberal" label.

The Senate's obligation is to confirm or deny the nominations on the basis of the character and ability of the nominees. While some senators have spoken out against President Johnson's filling places on the Supreme Court in the closing months of his administration, it is hoped that consideration of the nominations will not be unduly delayed.

In almost three years as an associate justice, since he succeeded Arthur J. Goldberg, Judge Fortas slowly has emerged as one of the stronger men of the court. At 58 his prospects of a long career are excellent; Thornberry, if age is a prime factor, is but one year older.

The liberal appellation attached to Judge Fortas conveniently can be reexamined by senators through perusal of a pamphlet he published this month. "Concerning Dissent and Civil Disobedience." Nowhere does Fortas contend that disobedience to the state is necessarily evil, yet he argues that "violence never has succeeded in securing massive reform in an open society where there were alternative methods of winning the minds of others to one's cause."

Both Justice Fortas and Judge Thornberry have been close to Mr. Johnson. The senate now must set them apart for its judgment.

[From the St. Petersburg (Fla.) Times, June 22, 1968]

THE WARREN COURT

Chief Justice of the Supreme Court Earl Warren is leaving his hign responsibility at a time that is both expedient and symbolic.

The 15 years of Warren's tenure—some of the stormiest and most moving in the court's history—came to a collective conclusion last Monday. On the final day of its 1967–68 term the court set a landmark which may equal or surpass Warren's 1954 school desegregation ruling.

Just as the earlier decision swept away the nonsense of "separate but equal" educational facilities, so the 1968 ruling on full access to housing cleared the American house of the cobwebs of discrimination.

Earl Warren is a judge who personified the personal in ideals and the objective in law.

Though his outward reaching for individual constitutional rights often extended into the unpopular, the chief justice never reacted personally to the abuse and hatred of those who would "Impeach Earl Warren."

To his detractors, the nation's highest tribunal was slurringly referred to as "The Warren Court."

The slur may become an accolade when history calms emotions.

It is because Justice Warren believes so strongly in progress and the court's responsibility that he will be leaving it. Now is the moment to assure that his succession will not make a mockery of his record. By resigning before a change in administration, Warren has increased chances of maintaining the liberal quality of the court.

Speculation will swirl and wash around the person whom President Johnson could select. Liberal Justice Abe Fortas ranks high on the list of possibilities. Arthur Goldberg has been mentioned. Such an appointment would provide a fitting finale to the Supreme Court career previously interrupted to serve at the United Nations.

But more than the drama of the new man will be the force of the old.

From the time in 1953 when Earl Warren came to the court from a highly successful political career that almost led from California to Washington, this man has been in the forefront of tough decision-making. It was in his first year that the desegregation ruling came.

Not only in the field of civil rights has the court, under Warren's leadership, provided direction for the nation. Equally restoring was the decision on political rights: the "One-Man, One-Vote" ruling.

If the remarkable record of the Warren Court is to be preserved, President Johnson faces a really crucial choice for the nation's legal and philosophical future.

[From the Portland (Oreg.) Oregonian, June 27, 1968]

JOHNSON'S COURT

Two colleagues and personal friends of Lyndon B. Johnson from the old New Deal days of Franklin D. Roosevelt will assure the continued "liberal" direction of the U.S. Supreme Court. Despite the mutterings of southern Democrats and some Republicans, the Senate is almost certain to confirm their nominations.

Justice Abe Fortas, 58, two years on the high bench, succeeds Chief Justice Earl Warren, Homer Thornberry, 59, of Austin, Tex., will move up from the 5th U.S. Circuit Court of Appeals to replace Fortas.

The Senate found no excuse to deny confirmation when Fortas was appointed to the high court or when President Kennedy named Thornberry to the district court in Texas and President Johnson advanced him to the circuit court. Despite the antipathy of Sen. James Eastland of Mississippi, chairman of Senate Judiciary, it is most unlikely that these appointments by a "lame duck" President will be rejected unless opponents can find something besides political liberalism with which to charge them.

Chief Justice Warren, 77, said in his letter of resignation to the President he was retiring solely because of age. But surely in the back of his mind was the desire to assure continuance of the "activist" trend of the "Warren Court." History will judge the stupendous record of that court in civil rights, voters' rights and law enforcement—and the verdict, on the whole, we believe, will be more favorable than unfavorable.

Still, the times cry for a more conservative approach to the interpretation of the Constitution and the laws, and a decrease in legislating by judicial processes. This isn't going to happen for a while, it would seem, although Judge Thornberry may have a different slant on rights of criminals than have some members of the Warren Court. He worked his way through the University of Texas law school as a deputy sheriff and served 14 years in Congress.

[From the Harrisburg (Pa.) Patriot, June 28, 1968]

SUPREME COURT: L. B. J. APPOINTMENTS ARE JUSTIFIED

The 18 Republican senators who are threatening a filibuster to block President Johnson's nominees to the Supreme Court would be well advised to back off while the backing's good. "A lot has to do with the country's reaction," says a leader of the effort, the "moderate" Sen. Robert Griffin of Michigan. "I think a lot of people feel that a new President with a November vote behind him should make the Supreme Court appointments."

We do not pretend to know what the country's reaction is or will be, but we feel, and we suspect that many people will agree, that this is a transparent political maneuver which cannot be justified.

The Supreme Court is a political force, but it ought not to be made a political football. This is June. President Johnson will be in the White House for another six months. He is, technically, a "lame duck," but then so was President Eisenhower for all four years of his second term.

Would the country really react favorably to a filibuster, of all things, designed to keep the Senate from voting to fill a vacancy on the most important court in the country, and for purely partisan motives.

So long as Mr. Johnson is President, just so long must he execute the responsibilities of his office. In nominating Associate Justice Abe Fortas to succeed Chief Justice Earl Warren, and Federal Judge William H. Thornberry to succeed Justice Fortas, Mr. Johnson has executed his responsibilities; he would be guility of negligence if he did not. Now the Senate must exercise its responsibilities, but in a responsible way.

That Justice Fortas is a friend for 30 years of the President is common knowledge; that he is one of the most brilliant lawyers in the nation, a man of breadth and depth, courage and compassion, is also a matter of public record.

The appointment of judge Thornberry, a former congressman who represented Mr. Johnson's former district, is less distinguished but by no means unjustifiable. Judge Thornberry is a liberal Texan, which is not a conflict in terms, and he is well-regarded on the federal bench, not only for his carefully reasoned decisions but for his dedication to equal justice under the law for all men, white and black.

In general approach, Justice Fortas is close to Chief Justice Warren. The continuity will be good for the country, for in the 15 years during which Earl Warren has presided over it the Supreme Court has produced landmark decisions to maintain individual liberty against government, to compel government to be responsive to the people, to strike down segregation and to uphold free speech.

Those have been years upon which—as former Pennsylvania Bar Association President Gilbert Nurick of Harrisburg has declared—historians will look and conclude that the Supreme Court has made meaningful and long-needed contributions "toward the accommodation of our great Constitution to the present and future needs of our nation."

[From the Trenton (N.J.) Times, June 28, 1968]

CHIEF JUSTICE FORTAS

We assume that the manufacturers of the "Impeach Earl Warren" signs will be resourceful enough to convert their unsold stock to read "Impeach Abe Fortas." Because the big balding Southerner who has been nominated to be the next U.S. Chief Justice is similar to Warren in outlook, and the spiteful crowd that hated Warren for the judicial philosophy he personified will find Fortas no more to its liking.

Both men are activists, who sees the U.S. Constitution not as a narrow, rigid 18th-century document but as a flexible instrument whose language is broad enough to be relevant to the transformed America of today. Both have shown by their decisions involving individual rights that they take very seriously indeed the Bill of Rights and the

14th Amendment that guarantees due process and equal treatment under the law. Fortas, it might be added, sees very clearly the distinction between individual liberty and anarchy; in a recent pamphlet he expertly demolished the proposition that mob action can ever be an acceptable substitute for traditional democratic and legal processes.

There are differences between the two men, of course. Fortas, unlike Warren, brings to the country's top judicial job a brilliant legal mind that has been exercised in the courtroom, the classroom and on the bench. However, there is some question whether he can match Warren's great ability for reconciling differences within the court. Time alone will tell.

A few small-minded senators are scheming to try to block Justice Fortas' confirmation, along with that of the President's other appointee to the high court, Judge Homer Thornberry of Texas. Any such effort, rooted as it would be in pure partisanship, would discredit only those who joined in it—not the appointees themselves, or the man who appointed them.

[From the Minneapolis (Minn.) Star, June 29, 1968]

A PAIR OF GOOD APPOINTMENTS

President Johnson's appointment of Abe Fortas to succeed Earl Warren as chief justice and Judge Homer Thornberry of a U.S. Court of Appeals in Texas to the vacant seat was an astute political move, a typical Johnsonian exhibit of personal loyalty, and at the same time a guarantee of the continuity of the progressive Warren traditions.

By obtaining in advance the enthusiastic approval of Senate GOP leader Everett Dirksen, LBJ countered carping about "lame duck" appointments. He's not really a "lame duck," which means a defeated politician serving out an expiring term.

LBJ was not defeated. He has the duty and moral right to exercise all powers of office.

That both Fortas and Thornberry are old personal friends, that the first is Jewish, and both are Southerners is less important than that both are a credit to the bench intellectually, and put the highest priority on individual rights and dignity.

Fortas is a tough-minded legal scholar who can be expected to "marshal the court" as did Warren. For all his toughness he is sensitive to the civil rights and civil liberties issues that make up half the court's business. Thornberry, who served LBJ's old congressional district, was the only southern liberal on the House Rules Committee. As a subsequent federal judge he has been strong on desegregation and civil rights.

One of Warren's accomplishments as chief justice was to minimize internal dispute that can result in 5-to-4 decisions which in turn can subtly undermine the Supreme Court's prestige. The Fortas and Thornberry appointments are double assurance that "the Fortas court" will continue on the humane course that produced for that august body, the most powerful court in the world, some of its finest hours.

[From the Chicago (Ill.) Daily Defender, July 3, 1968]

THE GOP OPPOSITION

The GOP's loud protest against President Johnson's nominations of a chief justice and an associate justice of the Supreme Court in the waning months of his term, will not heighten the Republican cause in the hearts of the Negro voter.

The argument that President Johnson should relinquish the privilege of naming a new Chief Justice to his Presidential successor is simply idiotic. Tradition and constitutional warrant are both on the side of Mr. Johnson in this matter.

With Nixon, the party's Presidential frontrunner, spearheading the opposition, the Republicans are making it solemnly clear where they stand on the great social issues on which the high court has deliberated, and what they will do if they capture the White House.

Though retiring Chief Justice Warren was elevated to the Court's high station by President Eisenhower, both Ike and his Vice President Nixon were noticeably cool to Warren following the decision which found segregation of the public schools unconstitutional.

To reinforce that attitude, 18 GOP senators have signed a petition threatening a filibuster if necessary to block the confirmation of justice Abe Fortas to replace Earl Warren as Chief Justice and U.S. District court judge Homer Thornberry as associate justice.

In legal circles, Fortas is rated as a liberal with uncommon legal scholarship. His mastery of the law and the logic he adduces to his opinions make his persuasion irresistible. During the short period he has been on the court, his influence quickly has exceeded his seniority.

Thornberry's record as a liberal is without blemish. He was always on the side of justice and right especially where racial minorities were concerned when he was in Congress. And as District Judge, Thornberry has not deserted that tradition.

The Republicans are against a liberal court. Above all they do not want a continuity of the Warren tradition. During the 14 years of Warren's justiceship, the Supreme Court has done more to change the face of the nation than either the Congress or the Presidency. Its major decisions, especially on public schools, transportation and housing have technically raised the Negro out of the second-class citizenship.

The strictures against the Warren court have come, in the main, from Republican Congressmen and Republican newspapers. They have inveighed against every Supreme Court decision that pushed aside the major impediments to full citizenship for black Americans.

We are left with the inescapable assumption that advancement of the black man through the various interlocking segments of the American society is not a serious concern of the Republican Party as presently constituted.

[From the Newark (N.J.) News, June 27, 1968]

FORTAS FOR WARREN

On merit alone, President Johnson has every justification for the appointment of an old friend, Abe Fortas, to be the chief justice, suceeding Earl Warren. Justice Fortas went to the high court almost three years ago with an impressive background as a Washington lawyer and after years of high-level government service.

He had also been a close confidant of the President since their early days in the capital as young New Dealers in the first administration of Franklin D. Roosevelt. Fortunately, his political credentials are more than matched by a keen legal mind, which fits him well for the philosophical atmosphere of the high court.

In his brief tenure on the bench, Justice Fortas has demonstrated that he is no doctrinaire liberal, although he has generally aligned himself with the liberal bloc on the court. Indeed, there has been some evidence that he favors, at least to some extent, the exercise of judicial restraint in the deciding of constitutional issues.

However, there would seem to be little doubt that Mr. Fortas will not abandon the liberal path pioneered by Mr. Warren. But whether the court's liberal majority will be maintained will depend on Circuit Judge Homer Thornberry of Texas, Mr. Johnson's choice as another old friend, to fill the vacancy on the court.

In making the Fortas appointment, the President disregarded Republican urgings that he refrain from filling the post because of his lame-duck status, thus leaving to the new president the choice of a chief justice who will set the tone of the court in the years ahead. Now that the president has chosen to make the nomination, the Senate, in its advise and consent role, should be guided only by Mr. Fortas' qualifications.

His predecessor, Chief Justice Warren, leaves the high court after having wrought radical changes in the legal and social structure of the nation while generating some of the most intense controversy to envelop a judicial figure.

Chief Justice Warren went to the court with certified credentials as a liberal. In fact his liberal philospophy was so well established and authenticated during his career as governor of California that at one point he was nominated for election by the Democratic as well as the Republican parties. All this was well known when Mr. Warren was named to the court by Dwight D. Eisenhower who as a middle-of-the-road president otherwise opened few avenues to the left.

After Mr Warren's appointment, the court embarked upon a course that resulted in a series of civil rights decisions beginning with desegregated schools on through voting rights that changed social and legal concepts embedded in the law and the public consciousness for a century.

Similarly, he held in highest value the rights and dignity of the individual, and it was fulfillment of this doctrine in criminal cases, embodied especially in such controversial decisions as Miranda and Escobedo, that brought the Warren court into sharpest conflict with Congress and much of the country.

[From the Baltimore Sun, July 16, 1968]

JUDICIARY HEARINGS

The Senate Judiciary Committee hearings on the President's nominations to the Supreme Court begin in earnest this morning. Early sessions have largely quieted preliminary matters, trivial and otherwise. Few really doubt that two court vacancies exist or are imminent with Chief Justice Warren's announcement that he will retire. No one really denies President Johnson's power to name Justice Fortas as the new Chief Justice and Judge Thornberry for the vacancy that results. The fact that both nominees are friends of the President may explain but hardly invalidates the nominations. The real issues, the truly solemn questions now as always and perhaps more in these times of trouble, go to the nature and scope in our tripartite arrangements of the judicial power, to the views thereon of the nominees and to their competence to do as they say.

As it happens, the Judiciary Committee members and the country in general have a brief and consummately stated guide to the ultimate considerations in a case decided on the last day of the Supreme Court's recent term. Five justices affirmed a conviction under local Texas law for public drunkenness. The appellant had pleaded that he was an alcoholic, that alcoholism is a compulsive disease and that the court should outlaw penal sanctions for behavior not willed but compelled by alcoholism. The drama of the case was heightened by the fact that Chief Justice Warren was in the majority which rejected this constitutional innovation, the Chief Justice designate wrote the dissenting opinion supporting it, and Justice Black, the court's senior in tenure and perhaps its most eloquent libertarian, wrote the concurrent with the majority from which we quote.

"This court," said Black, ". . . is asked to set itself up as a Board of Platonic Guardians to establish rigid, binding rules upon every small community in this large nation for the control of the unfortunate people who fall

victim to drunkenness. . . . The constitutional rule we are urged to adopt is not merely revolutionary—it departs from the ancient faith based on the premise that experience in making local laws by local people themselves is by far the safest guide for a nation like ours to follow. I suspect this is a most propitious time to remember the words of the late Judge Learned Hand, who so wisely said: 'For myself, it would be most irksome to be ruled by a bevy of Platonic Guardians, even if I knew how to choose them, which I assuredly do not. . . .'"

No member of the court, actual or prospective, would disavow Judge Hand's preference for free and representative government. Nor can the Judiciary Committee or the Senate itself wholly subdue the variability of words in the minds of strong and conscientious men. But ours is nevertheless still a government of words, the words of our constitutions and laws, and surely the committee and the court and the country will work toward the consensus that keeps it that way.

[From the New York Post, July 15, 1968]

THE FORTAS HERESY

In the end the confirmation of Abe Fortas as Chief Justice of the Supreme Court still seems virtually certain. The real question appears to be how much indignity he will be required to endure before he is cleared.

Latest to join the opposition bloc is Sen. Russell B. Long (D–La.), his party's whip in the upper house. Long says his opposition based on positions Fortas has taken "supporting the rights of criminal suspects."

In a sense, such attack can only bolster the case for the Fortas appointment. He has indeed been guilty of the kind of reverence for the Bill of Rights exhibited by Earl J. Warren. That is why his designation to replace Warren means so much to millions of Americans—and to those who are battling for freedom inside Communist and Fascist tyrannies. His critics do him honor, and give added meaning to the size of the confirmation vote.

[From the Nashville Tennessean, July 11, 1968]

SENATORS EYE THE MOUSETRAP

At least some of the 19 Senate Republicans who thought they had a roaring campaign issue are having second thoughts about opposing the appointment of Mr. Abe Fortas as chief justice of the Supreme Court.

Sen. Everett Dirksen, the Senate minority leader, said he would not join in the fray and that two of the original 19 were reconsidering. This week Kentucky Sen. Thruston B. Morton said he is one of the two.

"I got caught in a mousetrap on this thing," Senator Morton explained. Originally, he said, he thought he would be opposing only an action by the administration. Since the appointment, however, Senator Morton said he would be opposing Mr. Fortas, whom he described as "a helluva guy."

Perhaps another consideration is the pledge of Chief Justice Earl Warren to remain if his successor is not confirmed by the Senate.

The Republican stance has never had any legal or historical precedent. If they insist on trying to block confirmation with a filibuster now, they will be in the position of delaying or killing important legislation, continuing the controversial "Warren court," and opposing a popular and able justice.

In that event, they will have indeed created a campaign issue in the November elections—for the Democrats.

[From the Christian Science Monitor, July 15, 1968]

STRONG SENATE TIDE DEVELOPS FOR FORTAS

(By Godfrey Sperling, Jr.)

WASHINGTON.—A poll of the Senate by The Christian Science Monitor shows that the tide is running strongly in favor of approval of the nomination of Abe Fortas as chief justice.

Sixty senators have responded to a questionnaire asking if they would approve such an appointment. Thirty-nine answered "yes." Nineteen said "no." And two said they were "undecided."

Within this response lies enough dissent, of course, to launch a filibuster in the waning days of Congress. But White House pressure now is being exerted, and this resistance may fade.

With adjournment of Congress nearing, Senate delay has become the chief obstacle to confirmation. What the opponents to confirmation will do remains the imponderable.

Among some Republican leaders in both the Senate and House there is considerable unhappiness over the fight against confirmation that was launched by GOP Sen. Robert P. Griffin of Michigan. He and 18 other Republicans formed a bloc to prevent what they saw to be a "lame-duck appointment."

CHANGES INDICATED

But this group now is breaking up a bit. Sen. Thruston B. Morton, a member of the 19, has changed his position, now favoring a Fortas confirmation. Senate minority leader Everett McKinley Dirksen also has indicated support of the Fortas nomination.

Behind the scenes several GOP leaders have passed the word that the GOP resistance to Associate Justice Fortas has become an embarrassment to the party. Said one leader:

"The Republican Party has been making considerable progress with the Jewish community. But this GOP opposition to Fortas is going to hurt us with that group."

The GOP opposition to a Fortas (and Judge Homer Thornberry) appointment was detailed in an answer from Sen. Howard H. Baker Jr. of Tennessee:

"I believe that positions on the Supreme Court are of such significance that when coupled with the certainty that there will be a new administration in January, the new administration, whether Republican or Democrat, should have the opportunity to designate the new chief justice and the new associate justice of the Supreme Court."

POLITICS QUESTIONED

Sen. A. S. Mike Monroney (D) of Oklahoma, in supporting the appointments, had this to say on his questionnaire: "I think this assumption that presidential powers end six or seven months before his term expires is repugnant to the office of the presidency and to the Constitution."

Opposing the appointment, Sen Len B. Jordan (R) of Idaho takes this position:

"The question is whether it is wise policy for the Senate to confirm a new chief justice and an associate justice, who presumably will serve for life, when the people are in the midst of choosing a new president and a new government.

"I expect to vote against both confirmations—not so much as a protest against the persons whose names have been sent up to the Senate by the President, but as a matter of principle and a protest against the system."

OPPOSITION TO MILITARY SERVICE IN VIETNAM

Mr. HATFIELD. Mr. President, recently, I received the texts of statements from 103 college student-body presidents and newspaper editors, 200 Woodrow Wilson Scholars, and 19 Danforth Fellows, stating that they cannot in good conscience serve in the military so long as the war in Vietnam continues.

Although I have continually spoken out against civil disobedience, I think it is imperative that we seek to understand the terrible dilemma which these young men face. Indeed, many of our Nation's most idealistic young men are torn between the recognition of their duty to serve their country and their duty to apply an individual moral standard to the actions they perform. Though we as lawmakers must disavow their contravention of the law, I would hope that we will not ignore either the integrity of their decision or the agony of their action. Their words echo the feelings of so many young men who are deeply tormented by the sacrifice of values which is demanded of them by participation in a war which they believe is immoral.

I cannot help contrasting the bitterness of today's young men drafted to fight in Vietnam with the call my generation felt to serve in the Second World War. I was proud to serve in the Navy in the South Pacific at Iwo Jima, Okinawa, and Indochina, because the purpose and the necessity of our struggle was clear. Today, however, I question the avowed purposes of the war in Vietnam, and I question a system of conscription which forces young men to contradict their own moral commitments. It has been clearly demonstrated, I believe, that the current draft system is a drastic invasion of individual liberty; does not apply equally to all young men; and does not economically provide the type of personnel needed by the military. A voluntary military recruitment program with improved incentives and opportunities, as I proposed in S. 1275, the Armed Forces Improvement Act of 1967, would not only be economically feasible and capable of producing the necessary number and quality of military personnel, but also would eliminate the injustice and the compulsion of the present system.

So I ask unanimous consent that the statements of these students be printed in the RECORD. In doing so, I hope that we will not remain impervious to their cry for revaluation—of a war in which they in good conscience feel they cannot serve and of a Selective Service System which gives them no choice.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF 103 COLLEGE STUDENT BODY PRESIDENTS AND NEWSPAPER EDITORS

Despite our government's hardening of position in negotiations with North Vietnam, we hope that the President's actions of March 31st indicate the beginning of a reversal of our war policies. Students have, for a long time, made known their desire for a peaceful settlement. The present negotiations, however, are not an end in themselves, but rather the means to a cease-fire and American extrication. And until that cease-fire is reached, or until the Selective Service System is constructively altered, young men who oppose this war will continue to face the momentous decision of how to respond to the draft.

In December of 1966, our predecessors as student body presidents and editors, in a letter to President Johnson, warned that "a great many of those faced with the prospect of military duty find it hard to square performance of that duty with concepts of personal integrity and conscience."

Many of draft age have raised this issue. Last spring over 1000 seminarians wrote to Secretary of Defense McNamara suggesting the recognition of conscientious objection to particular wars as a way of "easing the

coming confrontation between the demands of law and those whose conscience will not permit them to fight in Vietnam." Last June, our predecessors submitted, along with a second letter to the President, a petition signed by over 10,000 draft eligible students from nine campuses, calling for alternative service for those who cannot fight in Vietnam. There have been many other similar attempts to influence Congress and the Administration. Nonetheless, despite all our efforts, the Selective Service System has remained impervious to constructive change. Now this June thousands of fellow students face the probability of immediate induction into the armed forces.

Most of us have worked in electoral politics and through other channels to change the course of America's foreign policy and to remove the inequities of the draft system. We will continue to work in these ways, but the possible results of these efforts will come too late for those whose deferments expire in June. We must make an agonizing choice: to accept induction into the armed forces, which we feel would be irresponsible to ourselves, our country, and our fellow man; or to refuse induction, which is contrary to our respect for the law and involves great injury to our personal lives and careers.

Left without a third alternative, we will act according to our conscience. Along with thousands of our fellow students, we campus leaders cannot participate in a war which we believe to be immoral and unjust. Although this, for each of us, is an intensely personal decision, we publically and collectively express our intention to refuse induction and to aid and support those who decide to refuse. We will not serve in the military as long as the war in Vietnam continues.

Robert J. Anderson, Editor, campus newspaper, Hampton Institute (Va.).

Gary W. Baker, Editor, campus newspaper, Highland Park College (Mich.).

Russell Bass, Student Body President, San Francisco State College.

Ed Berry, Student Body President, Maryknoll College.

Peter Beusan, Student Body President, Augustana College (Ill.).

Roger Black, Editor, campus newspaper, University of Chicago.

Wayne Blodgett, Editor, campus newspaper, State University of New York at Stonybrook.

Marshall Bloom, Editor, campus newspaper, Amherst College.

Tim Boal, Editor, campus newspaper, Olivet College (Mich.).

Michael Bratman, Student Body President, Haverford College (Pa.).

Terrance Brown, Student Body President, Kalamazoo College.

Glenn Brunman, Student Body President, Queens College (N.Y.).

Jan C. Burda, Student Body President, University of Corpus Christi.

Edward P. Butler, Editor, campus newspaper, University of Hartford.

William D. Casey, Editor, campus newspaper Southwestern at Memphis.

David Chambers, Student Body President, Lawrence College (Wis.).

Stan Chess, Editor, campus newspaper, Cornell University.

Thomas James Coates, Student Body President, San Luis Rey College.

Steve Cohen, Student Body President, Amherst College.

Gregory B. Craig, Student Body President, Harvard College.

Edmund T. Crowley, Student Body President, St. Anselm's College (N.Y.).

Glenn Craig Davis, Student Body President, Reed College (Oreg.).

Clinton Deveaux, Student Body President State University of New York at Buffalo.

Dennis Dorgan, Editor, campus newspaper, Sioux Falls College.

Jay Dravich, Student Body President, Long Island University.

Ronald L. Eachus, Editor, campus newspaper, University of Oregon.

Martin Ferrell, Student Body President, DePauw University.

Norman Fischer, Editor, campus newspaper, Colgate University.

Harvey Fleetwood III, Moderator of Students, Bard College (N.Y.).

Matthew H. Fox, Editor, campus newspaper, University of Wisconsin.

John Fraser, Student Body President, Oregon State University.

J. M. Fullwood, Student Body President, Mansfield State College (Pa.).

Benjamin R. Gruberg, Community Moderator, Goddard College (Vt.).

Jack Hardy, Student Body President, University of Hartford.

Norm Harpur, Editor, campus newspaper, Oakland University (Mich.).

Scott Harrison, Editor, campus newspaper, San Francisco State College.

Peter Helwig, Managing Editor, campus newspaper, Muhlenberg College (Pa.).

Michael Herthneck, Student Body President, Kalamazoo College.

Richard Steven Hill, Student Body President, Centre College (Ky.).

Mike Honey, Editor, campus newspaper, Oakland University (Mich.).

David W. Inglis, Student Body President, Onondaga College (N.Y.).

Richard Nelson Jener, Student Body President, University of Oregon.

Choice T. Jennings, Student Body President, Selma University (Ala.).

John Jimison, Student Body President, College of Wooster.

Dale Johnson, Editor, campus newspaper, Eastern Montana College.

Art Johnston, Editor, campus newspaper, Wayne State University.

Peter J. Kaminsky, Student Body President, Princeton University.

Allan Katz, Student Body President, University of Missouri.

Devereaux Kennedy, Student Body President, Washington University.

Julius H. Kidd, Student Body President, Bethune-Cookman College (Fla.).

James W. Kiley, Student Body President, Northern Illinois University.

Neal F. King, Student Body President, St. Mary's College (Calif.).

Mike Kirsten, Editor, campus newspaper, University of California at Berkeley.

Joel Kraemer, Editor, campus newspaper, Harvard College.

Michael Krisman, Student Body President, University of California at Irvine.

Chuck Larson, Student Body President, Wayne State University.

David Lewin, Editor, campus newspaper, California Institute of Technology.

Anthony K. Lima, Editor, campus newspaper, Massachusetts Institute of Technology.

Clay Loges, Student Body President, University of Puget Sound.

Peter C. Lutze, Student Body President, Valparaiso University.

Patrick MacDonald, Editor, campus newspaper, University of Washington.

Daniel McIntosh, Student Body President, University of California at Berkeley.

Rick Marcus, Student Body President, Pomona College (Calif.)

Theodore C. Miller, Student Body President, Bethune-Cookman College (Fla.)

Harry Minor, Student Body President, University of Detroit.

Benedict M. Molden III, Student Body President, University of Hartford.

John Monson, Editor, campus newspaper, University of California at Irvine.

Hugh Moore, Editor, campus newspaper, University of Detroit.

Ray Mungo, Editor, campus newspaper, Boston University.

Henry Neuman, Student Body President, Augustana College (Ill.)

Dan Okrent, Editor, campus newspaper, University of Michigan.

Charles F. Palmer, Student Body President, University of California at Berkeley.

W. Garnett Palmer, President, Student-Faculty Council, St. Paul's College (Va.)

Malcolm Parker, Editor, campus newspaper, Muhlenberg College (Pa.)

Byron Pfeiffer, Editor, campus newspaper, Concordia Teachers College (Ill.)

Joseph Pilati, Editor, campus newspaper, Boston College.

Steven Press, Student Body President, Columbia University.

André Reiman, Editor, student newspaper, Pomona College.

Dan Riley, Editor, campus newspaper, University of Hartford.

Dave Rodin, Editor, Campus Newspaper, Cornell University.

Kirk Burns Roose, Student Body President, Swarthmore College.

Don Rubin, Student Body President, State University of New York at Stonybrook.

Lawrence Schonbun, President of Student Bar Association, Boston College School of Law.

Robert Seaburg, Student Body President, Colgate University.

Brendan John Sexton, Student Body President, New York University.

Michael Shaw, Student Body President, Harpur College (N.Y.)

Derek Shearer, Student Body President, Yale University.

Tomec C. Smith, Student Body President, Columbia University.

Ormond Smythe, Community Manager, Antioch College.

Felix J. Springer, Student Body President, Amherst College.

Carl Stern, Editor, campus newspaper, Reed College (Ore.)

Strobe Talbott, Editor, campus newspaper, Yale University.

Matthew Tannenbaum, Editor, campus newspaper, American University.

Eugene Thomas, Student Body President, St. Augustine College (N.C.).

Bruce E. Tischler, Student Body President, Union Theological Seminary.

Frank Utterington, Editor, campus newspaper, University of Missouri.

Robert Waste, Student Body President, Shasta College (Calif.).

Richard F. Weidman, Student Body President, Colgate University.

Barry A. Willner, Editor, campus newspaper, Lafayette College.

Barry M. Wohl, Student Council President, Swarthmore College.

Tom Wolfe, Editor, campus newspaper, University of California at Berkeley.

Carl Wood, Student Body President, University of California at Riverside.

Dan C. Woolridge, Editor, campus newspaper, Chapman College (Calif.).

STATEMENT OF 200 WOODROW WILSON SCHOLARS

Many of the students graduating from college this June will face immediate induction into the armed forces.

The undersigned cannot in good conscience permit themselves to contribute to the immoral and senseless war which the Administration is waging in Vietnam. For the duration of the Vietnam conflict, those of us who are eligible to enter the army shall refuse induction; those of us who are not eligible would refuse induction were we so eligible.

We are confident that tens of thousands of our fellow students throughout this nation shall similarly refuse to participate in the Administration's intervention in the Vietnamese civil war.

(Signed)

Barbara Joyce Appell, Heather Dawn Aspinall, Kenneth Robert Audroué, Roger Shaler Bagnall III, Mary Catherine Barnes, David Neal Baron, Patricia Yvonne Bateman, Mrs. Beth Baum, Mary Lou Beechy, Robert

Stephen Bell, Daniel Jacob Beller, Anthony Austin Bibus III, Joseph T. Bivins, Alexandra Bley, Eileen Myra Blumenthal, Mrs. Sylvia Edelglass Bonnell, Judith Helen Brandstetter, Jonathan Brent, Jay Alan Bregnan, Sylvia Grace Brown, Elizabeth Anne Carter, William Robert Carter, Harold Cherney, Patricia Anne Cline, Milton Richard Coleman, James Patrick Cooney, C. Edward Cragg, Mrs. Anne Barrows Crehan, Gerald C. Cupchik, Mrs. Phyllis Passariello Dahl, Duane D. Dale.

Cynthia Ann Degnan, John Estano DeRoche, Susan Gail Diamondstone, Carl-Arno Christopher Diehl, John Scott Dingwell, Diane Elizabeth Dreher, Ellen Carol DuBois, Todd Hammond Duncan, Arthur Benoit Eklof, Susan R. Ekstrom, Victoria Mary Eldredge, David Lowell Empey, Mary Lee Everett, Stuart Bear Ewen, Jo Cheryl Exum, Marie Antoinette Farenga, Judith Morris Feder, Hovsép Magardich Fidanián, William Franklin Finzer, Norman Fischer, Paul Michael Fischler, Robert Lawrence Fishman, Jere Jonathan Fitts, Jane Zeni Flinn, Jeffrey Edward Fookson, Edward Henry Friedel, Winnie Wahl Frohn, James J. Fusco, James Garbarino, Henry Allan Gieg, Gerald N. Ginsburg.

Bonnie Gold, Deborah Golomb, Patrick Michael Grady, Jefferson Alden Graves, Paul Greenough, Irving Green, Miriam Greenspan, Frederick Alan Grossberg, Lawrence Grossberg, Matthew Halfant, Mrs. Julia Clover Hall, Peter Dobkin Hall, Eldon Duane Hansen, Neil Hartman, Mrs. Anne Thompson Henderson, Marni Lotte Hendrickson, Susan Carol Hilgendorf, William Jeffrey Howe, Ellen Janet Hunter, Wendell Prince Jackson, Allan Jaworski, Laura Ellen Jeppesen, Nancy Elizabeth Johnson, Mrs. Benetta W. Jules-Rosette, Jeffrey A. Justin.

Jonathan Michael Kertzer, David Hoyt Kirkwood, Alexandra M. Klymyshyn, Randall Steven Koch, Mirijana Koche, John Kogut, Kent Thomas Kraft, James Lewis Kugel, Patricia Ann Lang, Monika Mechthilde Langer, Shelah Rose Lehrer, Margaret Anne Levi, Randolph Herbert Levine, Patricia Barbara Looney, Alan R. Lopez, Daniel Peri Lucid, Mrs. Luellen Gold Lucid, David Baruch Malament, Adolphe Richard Mangeot, Jean Celia Maraniss, Roger Paul Martin, Mrs. Kathleen Mary Martindale, Ray Pratt McClain, Judith Ann McGaw, William Hill McKenzie IV, Kathryn Kristine McMahon, Mrs. Frances Miriam McNealy, Mrs. Mary B. Gibson Monaco.

Arlene Moskowitz, Susanne Carol Mullen, John Harmon Muti, Lance Jean Nadeau, Thomas Michael O'Conner, Arthur Edward Ogus, Robert John Oresick, Steven Eliot Ostrow, Barbara Lee Packer, Elizabeth Ann Parker, Theodora Christine Paulson, Ethel Bryne Peirce, Cynthia Leslie Perwin, Helen Peters, Corinne C. Pfanzelter, Mel W. Piehl, Henry Lucian Pritchett, Richard Gerald Pruitt, Lois E. Putnam, Steven James Remington, Kay Melissa Riddle, Abby Jane Rosenthal, Michael George Rosenthal, Mark Bruce Rosin.

Gregory William Rowan, William Glenn Roy, Joel Rubenzahl, Mrs. Naomi Beth Sanders, Mrs. Leslie Ann Saretzky, Richard Nicholas Sawaya, Paul Dufred Schaefer, Molly Miriam Scheffé, Victor J. Schoenbach, Norman Stanley Segalowitz, Robert Neal Seidel, Leslie Tansley Sharpe, Marc Shell, James Terence Sherry, Mrs. Rosalind B. Shorenstein, Nancy Jane Simkin, Jonathan Hart Slan, Peter Wells Sly, Henry Martin Smilewitz, William A. Sokol, Elise Sara Solomon, Susan Beth Solomon, Felix Joseph Springer, William Lawrence Stanton, Margot Ballou Stein, Bonnie Jean Steinbeck, Carl Russell Stern, Barbara Jean Stoops, Kathryn Ann Strachota.

Robert B. Sullivan, Alexander Ralph Sussman, Philip Marc Tankel, Sue Ellen Tatter, Susan Ann Taverner, Shelley Elizabeth Taylor, Deborah Rose Thomas, Matilda A. Tomaryn, Jonathan Mark Unger, Gretchen A. VaderWerf, Tracy Linwood Varnum, Margaret Jane Vergerent, James Clyde Waggoner, Bettye Lou Wallace, Philippa Margaret Wallace, Benjamin Frank Ward, Jr., Gary Lynn Watson, Timothy Irving Wegner, Frank Poe Westbrook, Wilma B. Wetterstrom, William D. Whan, David Larry Williams, Janet Elizabeth Williams, Ann Withorn, Thomas Powell Witt, David Wofsy, William Marvin Woodall III, Diana Wells Wormuth, Erik Olin Wright, Carolyn B. Yale, Samuel Mideo Yamashita, Marilyn Zimmerman.

STATEMENT OF 19 DANFORTH FELLOWS

I cannot in good conscience serve in the military as long as the war in Vietnam continues:

George W. Cobb, Dartmouth College.
Thomas L. Dublin, Harvard University.
Christopher H. Hanks, Bowdoin College.
Eric J. Heller, University of Minnesota.
Walter A. Hesford, Trinity College (Conn.).
Richard H. Hudelson, DePauw University.
Wendell P. Jackson, Loyola College (Md.),
Thomas P. Joswick, St. Mary's College (Minn.).
Robert G. Kegan, Dartmouth College.
Anthony T. Kronman, Williams College.
Luke Szpakow, Boston College.
Mel W. Piehl, Valparaiso University.
William J. Reishman, University of Notre Dame.
Mark B. Rosin, University of Chicago.
Richard N. Saways, Boston College.
William R. Schroeder, University of Michigan.
Brendon J. Sexton, New York University.
Anthony J. Ugolnik, Wayne State University.
Michael Wasserman, Williams College.

FARMING LOSSES INCURRED BY NONFARMERS

Mr. METCALF. Mr. President, on November 1, I introduced S. 2613, a bill to amend the Internal Revenue Code of 1954, to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset nonfarm income. Senators who have joined with me in sponsoring the bill include the Senator from Idaho [Mr. CHURCH], the Senator from Wyoming [Mr. MCGEE], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Wisconsin [Mr. NELSON]. In the House, the bill has received bipartisan support in the form of companion legislation which has been referred to the Committee on Ways and Means. Three separate but identical bills are now pending in the Ways and Means Committee. The House bills were introduced by Mr. CULVER, of Iowa; Mr. HAMILTON, of Indiana; and Mr. ZWACH, of Minnesota.

The proposed legislation has provoked widespread discussion, which I am happy to say has been highly favorable. I have just received copies of two very enthusiastic agency reports, one from Assistant Secretary of the Treasury Stanley S. Surrey, the other from Secretary of Agriculture Orville L. Freeman. The reports recognize the fact that there is now a very real problem caused by taxpayers who are in the business of farming, mainly because of the tax advantages that serve to get their nonfarm income down into a lower tax bracket. To quote one report, this practice "inevitably leads to a distortion of the farm economy."

The agency reports suggest certain constructive modifications in the operation of the bill. I have asked the legislative counsel's office to incorporate those modifications in a new bill which I plan to introduce as soon as it is ready. By introducing a revised bill now, other Senators will have the opportunity to study its provisions prior to the start of the 91st Congress. But the point I want to emphasize now is that the objectives of both the new bill which is being prepared and the one which I introduced last November are exactly the same. So that other Senators will have the benefit of the two reports to which I have referred, I ask unanimous consent that they be printed at this point in the RECORD:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
Washington, D.C., July 11, 1968.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the Treasury Department's views on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset non-farm income", as it would be amended by Amendment No. 529. I note that S. 3443, while differing in many respects, is designed to deal with the same subject and has been referred to your Committee.

The objective of S. 2613 is to eliminate the provisions which presently grant high bracket taxpayers substantial tax benefits from the operation of certain types of farms on a part-time basis. These taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules—which were developed to ease the bookkeeping chores for ordinary farmers—these high bracket taxpayers show farm "tax losses" which are not true economic losses. These "tax losses" are then deducted from their other income resulting in large tax savings. Moreover, these "tax losses" frequently represent the cost of creating a farm asset (i.e., the cost of raising a breeding herd) which will utimately be sold and the proceeds (including the part representing a recoupment of the previously deducted expenses) taxed only at lower capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The essence of the bill is to deny high bracket part-time farmers the ability to use the generous farm tax accounting rules to reduce taxes on their non-farm income.

When a taxpayer purchases and operates a farm for tax purposes, it inevitably leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even a loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these

wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes. Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources.

The Treasury Department supports the objective of S. 2613, but suggests certain modifications in its operation. There is attached a memorandum which, in more detail, describe the problem involved, the reasons for the Treasury's position and its recommended changes.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

Attachment.

AN ANALYSIS OF S. 2613 AND THE FARM LOSS PROBLEM

The objective of S. 2613 is to remove certain unjustified tax benefits available to high bracket taxpayers whose primary economic activity is other than farming through the operation of cattle and other farming activities on a part-time basis. This memorandum describes the general tax problem involved; and then discusses the remedy offered by S. 2613.[1]

The Treasury Department supports the objectives of S. 2613, but suggests certain modifications in its operation.

1. GENERAL BACKGROUND

Methods of accounting.—There are two principal methods of accounting used in reporting business income for tax purposes. In general, those businesses which do not involve the production or sale of merchandise may use the cash method. Under it, income is reported when received in cash or its equivalent, and expenses are deducted when paid in cash or its equivalent.

On the other hand, in businesses where the production or sale of merchandise is a significant factor, income can be properly reflected only if the costs of the merchandise are deducted in the accounting period in which the income from its sale is realized. This is accomplished by recording costs when incurred and sales when made, and including in inventory those costs attributable to unsold goods on hand at year's end. Deduction of the costs included in inventory must be deferred until the goods to which they relate are sold and is not permitted when the costs are incurred. Thus, under this method of accounting, income from sales of inventory and the costs of producing or purchasing such inventory are matched in the same accounting period thereby properly reflecting income.

Farmers, however, have been excepted from these general rules. Even in those cases where inventories are a material factor, they have historically been permitted to use the cash accounting method and ignore their year-end inventories of crops, cattle, etc. This has resulted in an inaccurate reflection of their annual income since expenditures are fully deducted in the year incurred, notwithstanding the fact that the assets produced by those expenditures (inventories) are not sold, and the income not reported, until a later year.

Capitalization of costs.—Farmers are also permitted another liberal tax accounting rule. In most businesses, the cost of constructing an asset (including maintenance of the asset prior to its being used in the business) is a capital expenditure which may not be deducted as incurred but may be recovered only by depreciation over the useful life of the asset. In this manner, the cost of the asset is matched with the income earned by the asset. Farmers, however, have been permitted to deduct some admittedly capital costs as they are incurred. For example, a citrus grove may not bear a commercial crop until 6 or 7 years after it has been planted. Yet, the farmer may elect to deduct as incurred all costs of raising the grove to a producing state even though such expenditures are capital in nature. Similarly, the capital nature of expenditures associated with the raising of livestock held for breeding may be ignored and the expenditures may be deducted currently. These premature deductions frequently result in artificial tax losses.

The problem.—These liberal deviations from good accounting practices were permitted for farm operation in order to spare the ordinary farmer the bookkeeping chores associated with inventories and accrual accounting.

However, many high bracket taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules which allow premature deductions, many of these high bracket taxpayers show farm losses which are not true economic losses. These "tax losses" are then deducted from their other high bracket income resulting in large tax savings. Moreover, these "tax losses" which arise from deductions taken because of capital costs or inventory costs usually thus represent an investment in farm assets rather than funds actually lost. This investment quite often will ultimately be sold and taxed only at low capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The gain is usually the entire sales price since the full cost of creating the asset has previously been deducted against ordinary income.

Examples.—Under the present rules, if the taxpayer has chosen not to capitalize raising costs and also does not use an inventory method of accounting, he may deduct as incurred all the expenses of raising a breeding herd. These include breeding fees, costs of feed, and other expenses attributable to the growth of the herd. During the development of the herd, there is relatively little income realized to offset these expenses with the result that "tax losses" are incurred which may be used to offset the taxpayer's non-farm income. When the herd has reached its optimum size, a taxpayer seeking the maximum tax savings will sell the entire herd. If he does, he may report the entire proceeds of the sale as capital gain.

The dollars and cents value of this tax treatment can readily be seen through a simple example. Assume that the expenses of raising the herd are $200,000. If the taxpayer is in the top tax bracket, the current deduction of these expenses will produce a tax savings of $140,000. On the sale of the herd, however, the entire sales price, including the $200,000 representing the recovery of these expenses, will be taxable only at the 25 percent capital gains rate. The capital gains tax on $200,000 is $50,000; or less than half the tax savings realized in the earlier years. Thus, the taxpayer in this situation would realize a $90,000 tax profit from a transaction which economically is merely a break-even.

In the typical situation, the taxpayer will then begin the entire cycle again by starting a new breeding herd which produces more losses and which is later sold at capital gains rates.

Similar advantages are available to one who develops citrus groves, fruit orchards, vineyards, and similar ventures. These assets require several years to mature; however, the development costs, such as the costs of water, fertilizer, cultivation, pruning, and spraying may be deducted as incurred and before the venture produces any income. When the operation has reached the stage where it is ready to begin producing on a profitable basis, the orchard, grove, or vineyard is frequently sold in a transaction which qualifies for the lower capital gains tax rates. Meanwhile, the expenses incurred in the years prior to the sale have been used to create "tax losses" which have been offset against high-bracket ordinary income from other occupations.

Effect of tax benefits on farm economy.—When a taxpayer purchases and operates a farm for tax purposes, it leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes.

Scope of the problem.—Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources. The simplest statistics are: In 1965, among taxpayers with less than $50,000 of adjusted gross income, total farm profits were $5.1 billion and total farm losses were $1.7 billion; about a five-to-two ratio of *profits* to losses. Among taxpayers with adjusted gross income between $50,000 and $500,000, profits and losses were in an approximate one-to-one ratio. However, among taxpayers with adjusted gross income over $500,000, total farm profits were $2 million and total farm losses were $14 million, a more than seven-to-one ratio in the other direction—that is, *losses* to profits.

Conclusion.—These data demonstrate the scope and seriousness of the problem. The fact is that our tax laws have spawned artificial tax profits and have distorted the farm economy. S. 2613 is one avenue to a solution to this problem. The Treasury Department supports its objectives and the general approach it takes. The bill does, however, present certain operational problems discussed below. Where appropriate, we have suggested an alternative to overcome the difficulty.

2. AN ANALYSIS OF S. 2613

The essence of the bill is to deny wealthy part-time farmers the ability to use the generous farm accounting rules to reduce taxes on their non-farm income. To accomplish this, the bill would add a new section to the Internal Revenue Code which, in the case of taxpayers who are not "bona fide farmers"[2]

---

[1] The sponsor of S. 2613 has also offered Amendment No. 529. The proposed amendment is a minor technical change which does not affect the substance of the bill. The amendment has been considered in this analysis.

[2] Taxpayers who were not bona fide farmers when a farming enterprise was acquired but who became bona fide farmers by the end of the second taxable year following the year of acquisition would qualify as such from the time of acquisition. There are also exceptions for a farming enterprise acquired from a decedent, acquired by foreclosure, or acquired in the ordinary course of carrying on the trade or business of buying or selling real property.

as defined in the bill, would disallow as an offset to other income in any taxable year, the excess of all deductions attributable to the business of farming over the aggregate gross income derived from the business of farming in that year.

A bona fide farmer is defined as an individual (A) whose principal business activity is the carrying on of farming operations or (B) who is engaged in the business of farming as the principal source of his livelihood or (C) who is the spouse of an individual who falls under (A) or (B). A corporation would be considered a bona fide farmer if 80 percent or more of its stock were owned by individuals who are also bona fide farmers.

Definitional problems.—The bill thus would limit the tax benefits of farm losses to a defined group. In the Treasury Department's opinion, this approach will lead to administrative difficulty because the meanings of the defining phrases such as "principal business activity" and "principal source of livelihood" are not susceptible of precise definition, and therefore, will inevitably lead to much controversy and perhaps litigation.

As an alternative, we suggest placing a ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. If part of a taxpayer's income for a year consists of capital gains, his carryover of excess farm deductions would be reduced by the excluded half of his capital gains income. No matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. On the other hand, the ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part time or seasonal employment to supplement his income in a poor year in his farm operations would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provision would, in operation, only affect taxpayers with relatively large amounts of non-farm income, that is, individuals who do not have to depend on their farm income for their livelihood.

Corporate farms.—In his floor statement Senator Metcalf, the bill's author, noted that corporations were moving into farming at an increasing rate. While he was disturbed by this trend, he did not propose to prohibit corporate farming in this bill. Instead, the purpose was to "eliminate the possibility of corporations getting Federal tax rewards for engaging in loss operations in the farming field." The bill would achieve this goal by denying corporations the right to offset nonfarm income with farm losses unless 80 percent or more of the corporation's stock is held by bona fide farmers. CONGRESSIONAL RECORD, volume 113, part 23, page 30702.

The Treasury Department defers to the Department of Agriculture on the question of the desirability of corporate farming. However, whatever the decision on that matter, the corporate provisions in the bill do not appear to represent an effective approach to the issue. On the one hand they would deny the tax benefits of a farm loss on the basis of the make-up of the shareholders and not the nature of the corporation's activities. Thus, the farm loss abuse would still be available to a limited group of individuals who are able to arrange their farming and non-farming businesses so as to qualify as "farmers" based on their non-corporate activities although they would not based on both their corporate and non-corporate activities. For example, if a taxpayer has two farming operations, but is primarily engaged in a non-farming business, he would not be entitled to deduct any farm losses (or, under the Treasury alternative, only a limited amount). However, by transferring his non-farm business and one farm operation to a corporation and retaining the other farm business, he would qualify as a farmer since his only remaining business activity is farming. As a result, his corporation would be excused from the farm loss limitations. This result seems clearly inconsistent with the purpose of the bill.

On the other hand, as a discouragement to corporate farming, the provisions would affect only loss operations and not profitable ones, which likewise seems somewhat inconsistent. Thus, it does not appear that a proposal concerning "tax losses" is an appropriate vehicle for dealing with the general issues of corporate farming. It is therefore suggested that, in lieu of the corporate rules in the bill, corporations be covered in the same manner as individual farmers and farms run by a partnership.

Capital gains.—Under the bill, a taxpayer would be permitted to measure the amount of his allowable farm expense deductions for a taxable year by the full amount of any long-term capital gains for that year arising from sales of farm assets although, in fact, he receives a deduction equal to 50 percent of these gains in computing his income subject to tax. Thus, in this situation, the taxpayer will in effect receive a double deduction against his capital gain farm income. This is an important problem because of the special capital gain treatment allowed on the sale of farm assets such as draft and breeding livestock, and citrus groves. This problem could be solved by providing for an adjustment that would limit the measure of allowable farm deductions to the taxable one-half of capital gains.

Special treatment for certain losses and expenses.—On the other hand, it would seem appropriate to except some kinds of farm expenses from the disallowance provisions. One category of farm expenses would include taxes and interest which are generally deductible whether or not they are attributable to an income producing activity. A second category would include casualty and abandonment losses and expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship to the taxpayer since they may be catastrophic. These same expenses and losses are now excluded from the operation of section 270 which excludes losses in connection with a hobby operation.

Scope of the bill.—As noted at the outset, the farm loss problems at which the bill is aimed arise from the use of accounting methods which do not properly match income and expenses, such as the failure to use an inventory method where goods on hand at year end are a significant factor. Consequently, there would seem to be no reason to subject a taxpayer who adopts a proper method of accounting and capitalizes expenses to the restrictive rules of this bill. There is, in fact, a positive advantage in encouraging the adoption of sound accounting practices. Therefore, we recommend that the scope of this bill be limited to those taxpayers who, with respect to their farming operations, do not elect to use inventories and to capitalize all expenditures which should be capitalized under generally recognized tax accounting principles.

* * * * *

As indicated, these are not changes that go to the heart of the bill. We thoroughly agree with its objective and general approach. Our suggestions are generally to improve its efficiency.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 5, 1968.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of November 2, 1967, for a report on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not qualified farmers may not be used to offset nonfarm income;" to your request of February 19, 1968, for a report on Amendment No. 529, a technical amendment to S. 2613; to your request of May 9, 1968, for a report on S. 3443; and to your request of June 20, 1968, for a report on Amendment 853 to S. 3443. S. 3443 has purposes similar to S. 2613 but differs in some of the details.

These bills are designed to capture some of the taxes avoided by some individuals with sizeable income from sources other than agriculture, who operate farm enterprises at a loss and deduct farm losses from their income from other sources. It would accomplish this objective by providing that taxpayers engaged in the business of farming, but who did not have farming as their principal business activity as defined in the law, could deduct farm expenses only to the extent of their gross farm income.

The Department of Agriculture is certainly in agreement with the objectives of these bills. We believe that there are serious problems in the area of the tax treatment of farm income, and that these problems can be remedied. However, we feel that certain modifications in these bills would help to achieve their objectives more effectively, and at the same time would minimize other potential problems.

Perhaps the most important problem under these bills would be the effect on low-income farmers. Many of these farmers also hold nonfarm jobs, and off-farm income is often their most important source of livelihood. Under the proposed legislation, it would appear that these farmers would not be permitted to offset farm losses against income from their nonfarm jobs in years in which they lost money on the farm. Such a provision would have serious effects on present efforts to ameliorate rural poverty.

We believe the objectives of this bill could be accomplished more effectively if certain modifications were made. We recommend placing a reasonable ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. Thus, no matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. The ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part-time or seasonal employment to supplement his income would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provisions would, in operation, affect only taxpayers with relatively large amounts of nonfarm income, that is, individuals who do not have to depend on their farm income for an adequate living standard.

It would seem appropriate, however, to exclude from the definition of farm losses some kinds of farm expenses. One group of such expenses would include taxes and interest, which are generally deductible whether or not they are attributable to an income-producing activity. A second group would include casualty and abandonment losses and

expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship for the taxpayer. These same losses and expenses are now excluded from the operation of Section 270, which excludes losses in connection with a hobby operation.

The special position of farm losses for tax purposes which this bill is designed to change arise from the use of cash accounting procedures by individuals and corporations with large incomes from nonfarm sources who also engage in farming. The cash accounting method does not properly match income and expenses for these firms and individuals. For example, the failure to use an inventory method where goods on hand at a year's end are of considerable value can significantly overstate losses. However, the present farm tax advantages do not apply to a taxpayer who adopts an accrual method of accounting and capitalizes expenses. Therefore, we recommend that the scope of this bill be limited to those taxpayers who elect to use the cash accounting procedures.

This Department is now studying the problem of corporation activity in agriculture, with the objective of obtaining better information on both its extent and its probable effects. We do not believe, however, that it is necessary to wait for the completion of this study to recommend modifications in the tax treatment of corporations engaged in farming. Simple equity would seem to us to dictate that corporations be covered under this proposed legislation in the same manner as are individual farmers and farms run by a partnership. To do otherwise would be to open up new possibilities for tax avoidance through changes in legal form of organization, and raise the danger of attendant problems of distortions in our economic organization due solely to attempts to claim tax advantages.

This Department is informed that the Treasury Department is making similar recommendations with respect to changes in the language of S. 2613. We strongly urge passage of legislation which eliminates existing "farm tax havens" for individuals and corporations with substantial nonfarm incomes.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

Mr. METCALF. Mr. President, from time to time, I have referred in my Senate remarks to statistics of income compiled by the Internal Revenue Service which clearly illustrate the scope of this problem. The Treasury's comments on these statistics are particularly pertinent to any consideration of this legislation:

These data demonstrate the scope and seriousness of the problem. The fact is that our tax laws have spawned artificial tax profits and have distorted the farm economy. S. 2613 is one avenue to a solution to this problem. The Treasury Department supports its objectives and the general approach it takes.

Mr. President, I invite not only those Senators who have previously joined with me in sponsoring S. 2613, but other Senators as well, to join me as cosponsors when I introduce the new bill which will incorporate the administration's suggestions.

RALPH NADER'S TESTIMONY ON PLANNING, REGULATION, AND COMPETITION IN THE AUTOMOBILE INDUSTRY

Mr. NELSON. Mr. President, on July 10, two subcommittees of the Small Business Committee, sitting in joint session, received some of the most important testimony it has ever been my privilege to hear. The testimony was given by Mr. Ralph Nader. Our subject was on the question of whether private planning and regulation by the giant automobile corporations have substantially supplanted free competition in the automobile industry.

Mr. Nader's statement deals with matters of public policy which will shape the future of this country—and the world—for generations to come. The question of economic bigness, of aggregate economic concentration, of corporate power is only a matter with which the Government can deal effectively.

The hearing was the second in a series, the first of which was held last year, on the general questions, "Are planning and regulation replacing competition in the American economy?" The inquiry is being conducted by the Subcommittee on Monopoly, of which I am the chairman, and by the Subcommittee on Retailing, Distribution and Marketing Practices, of which the Senator from Oregon [Mr. MORSE] is the chairman.

On July 23, at 2:30 p.m., we shall resume the hearing and shall question Mr. Nader on his testimony. At that time, we shall also again afford the leading automobile manufacturers an opportunity to be heard, if they wish. I regret to say that they all declined invitations to participate in the July 10 session.

I ask unanimous consent that Ralph Nader's prepared statement before the Nelson and Morse subcommittees on July 10, 1968, be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

SOME COMMENTS ON PLANNING, REGULATION, COMPETITION, AND THE AUTOMOBILE INDUSTRY

(Statement by Ralph Nader before the Senate Small Business Committee, U.S. Senate, July 10, 1968, Washington, D.C.)

It is a privilege to have the opportunity to discuss with the distinguished members of this Committee the growth of auto industry regulatory and planning power, its effect on competition, and the well-being of small-business and the consumer. The subject of discussion today is the auto industry and its unchallenged corporate leader, General Motors. This obviously is a vast subject and I regret that General Motors declined the Committee's invitation to participate on a panel and afford you and the public the benefit of its decades of experience and information. General Motors is sixty years old this year and one might have expected a greater degree of wisdom from this senior corporate citizen.

Yet on further reflection, perhaps such an expectation is unwarranted. Anthropologists have taught us that the dominant institution in any society not only avoids external scrutiny but strives to strengthen societal controls that insure perpetuation of such an unexamined status. In our country, the large corporations are the dominant institution. They comprise the strongest, consistent, generic power in the land. They share a high degree of coordinated values. Their power is all the more remarkable in its resiliency and ability to accommodate or absorb other challenging power centers—such as big government and organized labor—in ways that turn an additional profit erect an additional privilege, or acquire protective mechanisms to ward off new pressures for change or reform.

This process of societal insinuation by large corporate concentrations continues unabated. The description provided by the general counsel and vice-president of Ford Motor Company in 1957 is even more pervasive today, but it is well worth recalling:

"The modern stock corporation," wrote Mr. William Gossett, "is a social and economic institution that touches every aspect of our lives; in many ways it is an institutionalized expression of our way of life. During the past 50 years, industry in corporate form has moved from the periphery to the very center of our social and economic existence. Indeed, it is not inaccurate to say that we live in a corporate society."

As against this massive presence of industrial, commercial and financial corporations, bound by a strong sense of common values, world-views and modes of operation, our governmental institutions have neither been able nor willing to examine systematically what the consequences of the use and *selective non-use* of corporate power has been for the public interest. The last study of corporate America was done by the Temporary National Economic Commission in 1941, and its monumental effort was clipped in the bud by the advent of World War II. The U.S. economy has almost quadrupled since that time and many of the top 200 corporations which now own nearly two-thirds of the manufacturing assets of the land are posting net profits as large or larger than their total sales in 1941. Yet in the intervening three decades, there has been no comparable study of concentrated corporate power, equipped with the power of subpena that can take the inquiry beyond the judgments of academicians and company public relations men and into the center of corporate operations.

The absence of political vigilance by the organs of government toward the onrush of corporate collectivism, with the exception of a few aborted Senate inquiries, is fraught with danger to a democratic society. This is the case, no matter how affluent that society has become in the aggregate, because of the gaping injustices affecting minority groups and majority public services. Indeed, the very productiveness of our economic system, a chief referent for corporate apologists, has led, through incaution and indifference, to vast new problems centering for example on the pell-mell contamination of soil, air and water that is taking us toward ecological disaster. Ostrich-like, government organs with real or putative responsibility for securing continual corporate accountability, have failed to alert the public to the facts and, even more, have not even articulated the idealized goals for the populace to strive for on their own.

The mark of the contemporary American political and economic system is *complicity* —active or passive—and the hopeful checks and balances of government and labor have neither recognized old ills nor new challenges put forth by corporate enterprise. Each segment of the Business, Government and Labor triangle is approaching the mutual similarity of its Euclidian prototype. President Eisenhower's farewell warning to Americans about the "military-industrial complex" is a favorite allusion for liberal jeremiads. But there has been little recognition of this and other civilian phenom-

ena pertaining to the merger of private and public power. Could the dreaded corporate state be coming on little cat feet quicker than is commonly believed?

Most basically dismaying is the atrophy of academicians. Without cues and stimuli from public action centers, political economy and the institutional economists have become a memory. Economists who used to think about the great questions of their discipline are gone or retired, replaced by colleagues who work for academic advance by developing a myopia that dedicates itself to rigorous trivia.

These concerns are partly why I am so heartened by the statement of Senators Morse and Nelson that "the public at large should be talking about [corporate concentration] and thinking about it at the same level of concern as is given to war and the arms race, the war on poverty, civil rights and civil liberties, the balance of power and responsibility between Federal and State governments, air and water pollution. Indeed, corporate giantism is not unconnected with any of these topics and is intimately involved in some of them."

This is also true of small business without which much innovation, entreprenuerial risk taking and decentralized economic power are not likely to survive.

Before turning to the auto industry, and the challenge to public policy, I wish to make three preliminary points:

(a) Limitations of time require that any statement be held to the barest sketch of the problem areas. However, by way of amplification and documentation, I am submitting materials for the hearing record.

(b) The primary focus of my remarks is on the need for an evaluative framework toward auto company performance in (1) the design and marketing of products and services, and (2) the political and economic environment (or infrastructure) that the industry has developed under the leadership of the dominant firm, General Motors, to secure and further corporate goals.

(c) The word "competition" means different things to different people. But it is clear that it has both quantitative and qualitative features in its operation. Both these features—its scope and its quality—must be taken into account in any evaluation of industry performance.

Moreover, to try and discuss competition, as if it is an isolated phenomena braced by supply and demand curves, is to fail to come to grips with the political realities of inordinate market power. For example while the courts must restrict themselves to determining the economic anticompetitive effects of the government's antitrust case, other decisional forums, such as legislatures, must take a broader assessment of where competition is working, not working and why. In this way, the political restrictions on antitrust enforcement and the limitations of antitrust action for industrial justice can be disclosed and openly treated. It is in this broader vein that I wish to discuss corporate planning, regulation and competition in the auto industry.

Getting around on the ground in private transport is America's biggest business. Whether in input-output analysis or simple aggregate data, the automobile industry stands as that private economic activity with the greatest multiplier effect for the rest of the economy. The industry consumed 11% of aluminum, 20% of the steel, 35% of the zinc, 50% of the lead and more than 60% of U.S. consumption of rubber in 1967.

Its capacity for insatiable depletion of public and private pocketbooks can be painful to behold. One out of every six retail dollars goes to buy or provide for motor vehicles. Over a hundred billion dollars a year are expended on new cars, used cars, gasoline, tires, auto repair and replacement parts, auto insurance and finance, the construction and upkeep of roads and other supportive facilities. Numerous ancillary industries and public services rely on the continuous multi-million volume production of America's most visible industrial art form. It is often said by auto industry boosters that one of every six business establishments is dependent on the purchase and use of motor vehicles. In terms of unused capacity, fuel consumption per passenger, injuries and pollution, and total time displacement of drivers and passengers, automotive travel is probably the most wasteful and inefficient mode of travel by industrial man. Yet automobiles will be here for some time to come and the market structure, conduct and performance of the industry must command a front line level of attention.

The domestic automobile industry is composed of four companies, three of whom account for over 97% of the domestic car market. General Motors delivered 54.7% of the North American-type passenger cars sold in the United States last year. In most of the postwar period, GM's share of the market has consistently been between 50 and 55 percent of the domestic market. (In 1940, GM's share was about 47 percent).

The dimensions of the world's largest industrial giant require some statistical etching. For 1967, the companies net sales reached $20,026,000,000, the third highest in its history. Net income was reported at $1,627,000,000, down from $1,793,000,000 for 1966, and still a distance from its profit record of $2,126,000,000 in 1965 (4.7% of total U.S. corporate after tax earnings). First quarter reports for 1968 point to at least a near record year for sales and profits. Its profit rate is regularly far higher than other auto manufacturers. GM's shares of total domestic automobile manufacture sales and earnings for 1966 were 52% and 69% respectively. For the period 1947–1966, GM's profits after taxes averaged 22.7% return on net worth, almost twice the 12.2% national average. This is the most conservative estimate based on GM's accounting practices that understate its income.[1]

The very size and diversity of GM provides an awesome leverage against any competitors. General Motors Acceptance Corp., the company's wholesale and retail financing subsidiary is alone the single largest seller of short-term commercial paper with outstandings rivaling the U.S. Treasury itself. Motors Insurance Corporation, a wholly owned subsidiary of GMAC, is one of the nation's largest underwriters of physical damage insurance. GMAC has about 80% of all GM financed automobile sales and GM dealers accept such financing, not because of its competitive rates, but in part because of coercion or knowing appreciation by the dealer of the consequences under the multifaceted leverage GM has in its franchise agreements. As pointed out in the Senate Antitrust Subcommittee report on administered prices in the automobile industry (1958), "GM, with its captive finance company, has a double incentive to maintain high automobile prices. As long as new cars are selling in volume, the higher the price, the greater the finance charge [and insurance rates] and hence the profitability of GMAC. Furthermore, in both production and financing, some loss in volume can be counterbalanced by high prices and high finance earnings.

GMAC earns for its parent company about 20% net profit per year on investment. There is an incentive for GM, as a result of the income received from GMAC and MIC, to raise its price—a feat facilitated by its unchallenged role as price leader. Dealers go along with this system because any displeasure they may have is sweetened by rebates that make all the difference to many of them.

The nearly 13,000 substantial GM dealers, whom GM has made financially dependent upon it by its policy of dealer exclusivity, comprise a powerful force at the retail level to further GM's hegemony. Bending dealers to their will has resulted in a greater and greater captive or exclusive market for parts and accessories (trumpeted publicly by the saturation advertising campaign to "Keep Your Car All GM") and put a merciless squeeze or squeezeout on independent manufacturers and wholesalers.

Power begets power. Former Antitrust Chief, Donald Turner, in June 1966 delivered an address on the anti-competitive effects of advertising flowing from firms possessing inordinate market power in their industry. GM's annual advertising budget exceeds $200 million touting, inter alia, excellence and "genuineness" of their parts. With a liquidity position in excess of three billion dollars distributed in variable proportions among more than one hundred of the country's largest banks, GM exerts a powerful influence in the world of finance. Considerations other than economics dictate such geographical placement.

Flexibility in the exercise of market power by GM is facilitated by keeping its financial reporting on the most general level. GM publishes only consolidated figures on its operations, refuses to break down its profits and financial data by divisions. Close observers of GM's operations indicate that one reason for such non-disclosure is that exceptionally high profits are made from its spare parts and accessories business—a particularly sensitive fact in view of the fancification, poor durability and expensive replacement (owing to original design decisions) of various portions of their automobiles. Another reason for no divisional reporting is to cover up which lines are subsidizing other company activities for the purpose of driving competitors out of business.[2] Non-disclosure of divisional operations relates also to the spectacular profit rate, even for GM, of certain divisions. Cadillac division, for example, before the construction of its new plant in the early Sixties, is reliably reported to have had a return on investment[3] of over

---

[1] American Motors, the smallest automobile company, is not a small company by usual standards. In 1965 and 1966 it ranked 63rd and 92nd respectively in Fortune's list of 500 largest industrials. Yet it is on the brink of failing in the automobile industry, and may have dropped out were it not for special tax relief and reliably reported assistance by GM as supplier and general benefactor. GM of course has a strong incentive not to be deprived of the symbolic value of AMC's retention in the industry.

Other comparisons of GM's magnitude may have an enhanced mennonic effect. GM annual revenues exceed the revenues of all foreign governments except the USSR and the United Kingdom. The company's annual gross revenues exceed the GNP of Brasil or the GNP of Sweden.

In 1965 GM received revenues of $2.3 million per hour, on a 24-hour a day, 365 day year basis. The company's average hourly profit after taxes (based on a 24-hour day, 365 days a year) was $204,721, $242,649, $198,034 in 1966, 1965 and 1964 respectively.

[2] Analysis of available confidential GM data reveals a record of price cutting between its divisions and profit squeezes on its competitors. Thus GM has used its monopoly power in one area to intrude such power into other areas where a higher degree of competition existed.

[3] "Investment" includes net worth of the division, a percentage of cash on hand by the corporation and a percentage of corporate operating funds. Even here, some expert opinion believe the funds are overstated in terms of the Divisions needs.

100% after taxes. One can imagine the reaction of a Cadillac purchaser on learning that little more goes into a Cadillac than a top line Buick or a fully equipped Chevrolet, in terms of production cost. The buyer is paying for a very little better car to the tune of about $200 per letter in that most expensive brand name of "Cadillac."

Perhaps the most intriguing expression of inordinate market power is GM's long established practice of a target rate of profit. The method used is basically similar to that of a public utility, except that GM sets its own upper limit several orders of magnitude above the average utility and there is no public supervision of its cost formulations and pricing practices. To set its target rate of return, ranging from 15 to 20 percent on net worth but always managing to exceed it substantially, GM has to possess the market power requisite for fixing its prices in advance of the new model year without having to concern itself with the possible effects of competitive pricing on its planned percentage profits and on its share of the market.

Analysis of the yearly outcome of GM's pricing formula suggests that a sufficient margin is taken into account to cover estimated income taxes. Income tax rates have not affected GM's rate of return. Taxes for GM have been treated as another cost which it can pass on to its customers. After taxes, the 1929 rate of return was 36.2%, while the 1950 rate of return was 37.5%. The 1929 rate was attained with a pre-tax earnings rate of 38.5% on average stockholders' investment; in 1950 GM made a pre-tax profit of 77.4% to earn 37.5% after taxes.

In an article that appeared in "The Corporate Director," (July 1956), the American Institute of Management marveled at GM's phenomenal rate of return:

"The astonishing fact emerges . . . that, from 1949 through 1955, the average rate of operating profit [net sales less cost of sales, selling and administrative expense and depreciation] in proportion to total assets employed, including debt, has exceeded 40 percent per annum. The operating profit on net stock and surplus, defined to include minority interest and special reserves, has exceeded 55 percent per annum in the average of these years. It has averaged 140 percent of the average net plant account in these same years."

At the 1955 rate of profit the AIM noted that GM's net earnings (after interest and income taxes) were sufficient to recoup the company's entire net plant investment in two years. AIM took note that this kind of return is "in fact, a continuing characteristic of the enterprise, being equaled or bettered in 12 of the preceding 20 years."

The price leadership of GM vis-a-vis Ford and Chrysler, for example, is indicative of its power. On occasion Ford and Chrysler have announced their annual model prices before GM but they generally have to adapt closely to GM's prices if they guessed wrong. In 1957, Ford guessed wrong and *raised* its prices to meet GM's.

There is even less incentive to compete on price, under a target pricing policy by the dominant firm in the industry, when that firm has pursued a product policy that emphasizes non-price competition. With little price competition at the producer level and with the camouflaging complexities of financing, and trade-in gimmicks, the emphasis long ago shifted to the area of style, intimations of aggression, power, vacation-land image and the "personality" of the particular make or model. The bulk of the communication process between auto company and customer stresses these themes and garnishes them with animistic appellations taken from the mountains, jungles and ocean depths. In the attenuated competition of a tight oligopoly, the range of competition is continually narrowed as each company competes more and more about less and less. In this game, GM has excelled. It has led the way with wraparound windshields, hardtop models, protruding dash panels, low profile vehicles (partly through tire size reduction) dagger fins and ornaments and other creative lethalities which the other domestic companies felt compelled to emulate.

As George Romney said ten years ago, GM's share of the market was so great that its styles determined the modernity of American cars. The stage was repeatedly set for what economists call "protective imitation." On the other side of vehicle design, although disc brakes and radial ply tires were available on some mass production cars in Europe as early as 1953 and 1949 respectively, only when GM, commencing in 1965, tiptoed into these radical offerings, as extra cost options, did the other companies follow suit. Clearly, a competitive industry would have seen one or more companies forge ahead here with such tested innovations. But again and again, one hears and has heard the plant of Ford and Chrysler personnel bemoaning the risks attendant upon not following the product leadership of GM. GM's planning and regulation in these price and product areas is possible, of course, by the effective insulation from a critical consuming body having available real choices whose differences are revealed at the point of sale. Again, Mr. Romney put it candidly:

"When you get an inadequate number of companies in an industry, the customer ceases to be king. He begins to be dictated to by the concepts that a few have as to what he ought to have, and that is what I am here talking about as far as this whole product situation is concerned, because there is inadequate and deficient product competition in the automobile business."

The domestic industry is no more competitive than it was a decade ago, although the operation of the auto safety law has the potential to provide a discernible point of sale differentiation in terms of safety performance that may stimulate some safety competition. One worsening area is that the price of entry into automobile production with national distribution most certainly has gone up from an estimated one billion made by Mr. Romney in 1958 when he headed American Motors. Very high barriers to entry help preserve the status quo.

The many ramifications of target pricing was discussed in a 1963 article by Gardiner Means:

". . . it is important to see just how pricing for an excessive rate of return does damage to the public interest. It does this in four important ways. It operates to slow up economic growth. It distorts the use of resources. It intensifies the conflict between labor and management and it distorts the distribution of income."

Mr. Means discusses each of these points in some detail. His first point bears on product innovation and quality. He comments about "the tendency to delay the introduction of improved techniques and improved products. If a new technique must promise a 16 or 20 percent return on capital before it is substituted for the old, it will not be introduced if it only promises an 8 or 10 percent return. The same applies to new products."

The history and attainments of GM's market power make it a classic candidate for antitrust enforcement under Sherman 2 and Clayton 7. In law and in economics there are solid grounds for proceeding toward dissolution or divestiture of General Motors under the two antitrust laws.[4] The only obstacle is political. How ironic indeed, for the political power of highly concentrated economic firms was a fundamental concern of the Republican Congress that passed the Sherman antitrust act in 1890. History has come full circle, when General Motors can succeed in transforming a *fait accompli* into de facto immunity from this basic antitrust action.

This is not the place for a detailed legal analysis of such an action. Suffice it to say that General Motors passes the test of unreasonable market power in terms of its size and the source of that power-growth through mergers and acquisitions of over 100 companies including the Olds Motors Works, Cadillac Motor Co., Fisher Body etc., etc. The Standard oil case, Alcoa, and DuPont cases, among others, are relevant authoritative interpretations of the antitrust laws for application to the GM situation. The Justice Department, more than anyone, knows the case against General Motors. Beginning near the end of the Eisenhower Administration and continuing into the Kennedy and Johnson Administration, Antitrust Division lawyers conducted a detailed examination into the company's anti-competitive and monopolistic behavior, both vertically and horizontally. A grand jury was convened in New York for 18 months. In May 1966, a 120 page memorandum, together with a 104 page draft complaint, was completed by staff. Succeeding inquiries to the Department of Justice

---

[4] Nor does GM come under any of the three exceptions outlined by Kaysen and Turner in their book, *Antitrust Policy*, to wit: "Market power resting on certain bases we consider 'reasonable,' because we think it either undesirable or impossible to eliminate them. First, where economies of scale are such that only a very small number of efficient sellers can survive in a market, . . . second, where market power rests solely on barriers to entry arising from the legal use of basic patents, . . . and third, where market power rests on the introduction of new processes, products, or marketing techniques. . . . Of the three bases of market power which we consider reasonable, only the first—economies of scale such as permit only few efficient firms in the market—is likely to be of substantial quantitative importance in practice." (pp. 78–79).

In Professor Joe Bain's empirical study of the economies of scale in the automobile industry, he concluded that 300,000 and 600,000 units per annum comprise the low and high estimates for optimal productive efficiency. Mr. George Romney estimated 440,000 cars afford optimum manufacturing conditions.

A frequent objection by businessmen to divestiture or dissolution antitrust relief has been the prediction of chaos and severe loss of business confidence throughout the economy. Similar unfulfilled predictions were made during the Standard Oil, Tobacco, Aluminum and Dupont cases. The latter divestiture of stock led pundits to predict a stock market collapse; nothing of the kind occurred and the matter was completed with hardly a ripple.

Another consideration often posed is that any such antitrust action will be bogged down in the courts for years. There is some truth here. The chief GMAC litigation took from 1938 to 1952; the Euclid case went from 1959 to 1967 before divestiture was obtained, the Dupont case spread from 1949 to 1962, and the GM bus case went from 1956 to 1965. Antitrust cases do take time, but that is no excuse to delay further what should have been commenced in the nineteen thirties.

have received the same reply: "The matter is still under study." Antitrust Chiefs come and go and the reply remains the same. And it will remain the same until there rises a private constituency for antitrust that Mr. Turner has on occasion felt would be necessary for going forward with the big cases.

In issuing its merger guidelines last month, the Justice Department declared that it would generally challenge mergers between two firms which each account for 4% of a highly concentrated market. Pitifully small in comparison with GM's 50–55% market share was the share of the local market held by Von's and Shopping Bag Grocery chains which desired a merger that would have given them 7.5% of the Los Angeles market. The Justice Department sued and prevented the merger under Clayton 7 in 1966. (*U.S. vs. Von's Grocery Co.*, 384 U.S. 270).

Certainly the record, as far as GM is concerned, upholds Professor Galbraith's relentless challenge to Assistant Attorney Turner last year before this Committee. But capacity to act is not tested by failure to act. Until the law is applied and fails to perform, we cannot fault it, however much we can fault the political pressures that devastate its legitimate potential.

There are those who are more skeptical and say "What difference does it make whether there are four or eight domestic automobile companies or whether GM remains as is or is subjected to dissolution or divestiture proceedings." I maintain that it makes a great deal of difference and before giving my reasons, I should like to itemize a few of the many deficiencies associated with the auto industry's performance so there be a clearer idea of the gap between performance and promise. In short, this list should make more concrete what I believe antitrust can be relevant to, both directly, and indirectly as a repercussive instrument.

1. The auto industry has been mired in a rut of technological stagnation unparalleled in a consumer goods industry. The record would have been worse were it not for innovations pressed on a reluctant industry by suppliers and European manufacturers. Henry Ford II & Donald Frey, Ford Vice President have recognized this lack of product innovation in public addresses. Professor Richard Morse of MIT recently sharply criticized the auto industry for neglecting research and development, particularly in engine innovation. Auto thefts have been a serious problem for decades; yet only next year will the auto industry begin to adopt some longstanding engineering "fixes" that make cars difficult to steal. If one were to gather up all the published works by the auto companies in the area of crashworthiness from 1920 to 1967, it would not constitute more than a day's reading, even allowing for the redundancy that is their outstanding characteristic. In the safety area generally, research and development facilities and manpower allocations have been almost insignificant. The most impressive evidence of this situation is available in the public docket of the National Highway Safety Bureau. This docket is full of statements about what the auto companies cannot do, what they do not know, and what they are unable even to measure. Under the pressures of modest, proposed safety standards, the companies owned up to their barren heritage in marked contrast to their previous self-congratulatory catatonia. With the advent of the safety law, a capability for safety innovation is being built up slowly. Competition may be induced by legal compulsion in this area.[5]

2. An institutionalized, Byzantine-like secrecy has been nutured by the leading auto companies. Several purposes are thereby served. One is the myth that secrecy is necessary to preserve the bitter competition between companies. This has to be a big joke in Detroit where there are few auto secrets. GM's vice-president, Semon Knudsen's shift to the Ford's Presidency carried little competitive advantage. Secrecy is really directed against the public pursuant to the tried precept that concealing the facts prevents the criticisms. Just how phony is their continual plea of confidentiality for competitive reasons can be judged by an episode during the Kefauver hearings on a administered prices. The big three auto companies turned down the Subcommittee request for a listing of materials costs on grounds that disclosure would place them at a serious competitive disadvantage. American Motors supplied the subcommittee with figures on their cost of materials and components. (The year was 1958 and AMC had its best years to come.) The companies know each others' costs, if not to the fourth decimal point. But if the public knew, for example, that the direct and indirect labor cost of a medium priced car does not exceed $300, the handy pretext of wage increases employed by management for raising car prices would tend to diminish to its real, not fancied, significance.

3. Because it conflicted with GM's sales formula of visible obsolescence and invisible permanence, safety became encapsuled in a slogan that was merchandised. "Safety doesn't sell." Taking safety out of the competitive race occurred years ago and the consumer was never asked. His choice was made for him by corporate planning. To illustrate this, consider the argument that safety can be incorporated as part of competitive behavior. Safety is mostly engineered into the vehicle and is not visible for a consumer's supposed aesthetic rejection. Better brakes, tires, handling, safer instrument panels, steering columns and door locks are all "passive" safety features hardly in the category of enraging a car buyer. Viewed as an innovative segment of product quality, it becomes part of vehicular progress, not a nasty nuisance.

A few safety features were add-on components and required passenger cooperation. The companies deliberately ignored these features (seat belts were prominent in aviation in the Twenties) and when they could no longer ignore them offered some as optional extra-cost equipment with very little communication of their protective qualities. Later they put seat belts as standard equipment, but their unnecessary awkward design and installation (reflecting low seat and door pillar strength in part) impeded usage. Finally, by requirement of law for 1968 cars, shoulder harnesses of the most, discommodious design were installed over the objections of General Motors. In a classic episode of corporate deception, General Motors, in the summer of 1967, hastily forgot its own graphic displays of the shoulder harnesses' superior safety shown in the lobby of its Detroit headquarters (in May) and dispatched some misleading films to Washington in a last ditch attempt to get rid of the "spaghetti" (as harnesses are derisively called by auto stylists) for at least another year. The attempt failed, in no small part because one small auto manufacturer, Volvo, produced data on some 25,000 accidents, involving Volvos equipped with harnesses that convincingly established the safety of their harnesses in even high speed collisions. A lesson in the benefits of competitive dissent because there was diversity! For decades, millions of unrestrained flying objects called Americans were flung inside their vehicles, crushing bones and ending life, because the industry's leaders vectored competition toward variations of stylistic pornography instead of toward engineering integrity. (The policy of delivering style as standard equipment and safety as extra cost option is still hanging on wherever possible in the industry.)

The extent to which this indifference to safety prevailed is documented in several volumes of recent Congressional testimony. They need no repetition here except to remind us of the degraded role given to engineering innovation for human needs.

4. One of these neglected needs is that of breathing pure air. Roughly half of the nation's air pollution proceeds from the internal combustion engine and its emissions of hydrocarbons, carbon monoxide, nitrogen oxides, and lead. Here, once again, it was not the industry that defined the problem but a Professor (Haagen-Smit) at Cal Tech, who observed the connection between photochemical smog and auto emissions in 1951. The agonizing experience of Los Angeles County and the State of California in trying to move the auto industry toward less polluting engines has been told elsewhere. Here one may note that the Antitrust Division of the Justice Department thought there was serious evidence of concerted and collusive behavior by the domestic auto companies in restraining the development and marketing of auto exhaust control systems to keep a Grand Jury busy for 18 months. But just as a groundbreaking suit for "product fixing" was about to be filed, the anticipated criminal action was dropped over the dissent of government counsel who handled the proceedings before the Grand Jury. This was in January 1968. A civil complaint ("go and sin no more" relief) was to be instituted instead. As of this day, no action at all.

A particularly clear illustration of continuing industry intrasigence on pollution-free engines was afforded this May before the Senate Commerce Committee. Hearings were held on steam cars. Both General Motors and Ford came in with testimony so patently erroneous or misleading that independent authorities in the room blinked or grimaced with incredulity. One could be charitable with some of these statements and call them the products of ignorance; one could be more accurate and chalk them up to corporate prevarication—a common affliction of executives before public committees or agencies.[6]

An earlier incident illustrating this affliction occurred in 1965 when California was determined to get some form of exhaust controls on the 1966 cars. Early in the year, auto spokesmen soberly assured state officials that it was impossible to have controls developed for the 1966 model year. Having had similar experiences in the past, Los Angeles County pollution control officers actively encouraged outside competition to the auto industry. Several emission control systems developed by smaller firms were certified by California in the late spring and summer of 1965, thus triggering the mandatory impact of the law

[5] GM sometimes contributes to scientific knowledge inadvertently. A U.S. Department of Agriculture scientist studying the devastating effect on the Michigan strawberry crop by *S. geminata*, a sap beetle, found that two acrylic GM car paints attract these beetles in hordes. So powerful is the lure that they forget all about strawberries in their rush toward proximity with the paint's odor. The Department is now making a more thorough evaluation of the usefulness of this paint as a weapon against these insects and their next of kin.

[6] An enlightening attempt to explain this phenomenon is contained in the January-February 1968 issue of the Harvard Business Review. ("Is Business Bluffing Ethical?") by Albert Z. Carr. Mr. Carr quotes the advice of Paul Babcock, an associate of John D. Rockefeller, to Standard Oil Company executives who were about to testify before a government investigating committee in 1888: "Parry every question with answers which, while perfectly truthful, are evasive of *bottom* facts." (his emphasis).

for the 1966 models. Suddenly the Big Three found they had their own devices which could pass California certification for installation on the vehicles that fall. The fact that these industry devices often deteriorated rapidly after a few thousand miles and required frequent maintenance does not obscure the lesson of having small business competitors around to spur the complacent or obstinate giants into action.

An additional lesson derives from the loss of their investment by this sudden preemption of the auto companies. This is not the kind of situation that generates incentives for such risk taking, which is another reason for enforcement of the antitrust laws.

5. Even in the area of supposed consumer acceptance, that of product differentiation over style, comforts and gadetry, the industry maintains an adhesion to adjectives and an aversion to factual disclosure. Would the consumer crave for styling changes if he knew that they are costing him at least $700 of the price of his new car? Especially if he had a choice of not having them and saving the difference? Do consumers really want those chrome eyebrows, called bumpers, whose chief function appears to be self-protection or the fostering of a multi-million dollar industry selling bumper guards to make up for stylistic idiocy? Ask them after they see that $200 repair bill following a 3 mph crash into another car while parking. Was there a clamor by consumers to put eyelids on Cougars, particularly the kinds of eyelids that sometimes refuse to flutter open at night (such a defect led to the recall of 85,000 Cougars last Spring)? These eyelids were standard equipment. What popular demonstration demanded hidden windshield wipers and the consequent freezing problem in northern climates? Do consumers know that, when asked to buy a fully-tinted windshield, they are paying more in order to see substantially less? Are passengers over 5'10" really getting what they want when they crouch in the ponycars hunched up in the front seat, doubled up in the back? Do people thrill to the prospect of backing up some of the newer cars by ear as much as by eye because of the rear panel "earmuffs?" Those "comfort-laden" power windows in millions of cars since the mid-fifties have on too many occasions turned into upward-bound guillotines for unwary children playing in family vehicles. The windows can be operated even with the ignition "off." The son of Mayor Jerome Cavanagh (Detroit), was almost strangled by the rear window of a Dodge stationwagon a few years ago. He was turning blue but they brought him to the hospital in time. Other children and infants were not so fortunate. Who are these stylists who are supposed to be giving people what they want? Perhaps it is understandable why they are not prone to meeting the people; why they are kept in seclusion by management; why engineers are chosen when it is necessary to explain their stylistic creations?[7]

6. What of the internal democracy of these corporations? Like any bureaucratic structure staffed by professionals with allegedly professional missions conflicting with prevailing corporate dictates, the climate can suppress or liberate, be fair or be unjust, be accountable or be a buckpasser. The practices of exploiting the employed inventor or insuring the indemnification of directors have weakened incentive and responsibility:

Too often, those who wish to change an institution place an exclusive emphasis on external controls. Clearly, Ford's Donald Frey (himself an engineer and former professor) was thinking of problems internal to the industry's environment when he wrote:

"It is a sad commentary, but some of the most reactionary people in industry are engineers. Fresh new departures that require creative thinking and innovation can wind up in the file marked NIH—Not Invented Here. It is up to management to prevent this waste by creative engineering organizations that are mentally attuned to trying the new."

Old line conservatives, believing in the open market and free enterprise, instead of the controlled market and closed enterprise characteristic of modern day oligopolies, might recommend some old-fashioned competition for meeting human needs of sober design, health and safety, economical operation and repair. Meaningful competition has a good deal of motivational force.

Looking over these less than optimum practices, it is apparent that antitrust is relevant more in a structural rather than a strictly substantive sense. By fostering competition, it increases the probability of diversity, dissent and risk-taking. It also attenuates the fear of the giant by the intermediates or the midgets. Antitrust has other points to commend it. It is law; it has traditions deep in both conservative and liberal thinking; it has doctrines of great flexibility resembling the common law more than statutory law. Above all, antitrust articulates the ideal of decentralized economic power and is a marvelous engine for disclosure of inaccessible facts having a spin-off into supplementary reforms which must be undertaken to do the tasks that antitrust is not equipped to perform. It is instructive that while corporate planning to obtain security at the expense of consumer or market sovereignty and at the expense of needed antitrust enforcement, more and more managers are wondering how to generate innovation just to solve the problems that they define as important for commercial success. Studies of innovation find a strong and unyielding contribution by the individual inventor or small business unit. Anyone who has observed the Harvard-MIT spill-over onto Route 129 can attest to the contemporary creativeness of the small unit growing into an establishment. Yet the way is still perilous for the small. The cause of auto safety has suffered grievously because of the unjust and unsupportive environment for the lone inventor who is still the main source of creativity in the world of automobiles, although he rarely receives the recognition.

Earlier I urged that antitrust needed a constitutency that supported its active enforcement. This is a constituency not just of professional manpower but of legal reforms and tools. Corporate accountability must necessarily be fostered with variety of controls and incentives. These range from disclosure requirements, effective sanctions, determining the scope of corporate involvement in political campaigns,[8] a more independent role by professional engineering, scientific and medical societies, a comprehensive rewriting of corporate charters for large corporations, and other reforms to take the myth out of people's capitalism and put the people in it.

It is important that the Committee inquire into the problems represented by these suggestions for actions. Because in many ways these problems have deepened because of unchecked corporate concentrations. In 1965, Assistant Attorney General for Antitrust, William Orrick described the broader motivations behind the antitrust laws in a manner often conveniently forgotten by those who give lip service to these laws:

"The Sherman Act in 1890, the Clayton Act in 1914, the Celler-Kefauver Act in 1950—reflected Congressional fear of the political power that might be wielded by our largest corporations; fear of the inability of the small businessman to survive and prosper in an economy dominated by huge corporate structures; fear of the absence of shareholder democracy in the big corporations; fear of local concerns being acquired by national companies and operated by absentee management unresponsive to local problems."

Senator Philip A. Hart reiterated this understanding in an address last April.

The atrophy of antitrust and the absence of sufficient appreciation for its doctrines can be appraised by the surprise with which the following selections will be met:

On March 8, 1956, President Eisenhower's Antitrust Chief, Stanley N. Barnes, urged General Motors to voluntarily give up one or more of its automobile divisions in order to lessen a dangerous concentration in the industry.

In the late 1940's, Henry C. Simons, one of the leading advocates of the "Chicago school of economics" and free-enterprise economics in the United States wrote that reasonable monopoly is a contradiction in terms. There can be no such thing. Wide dispersion of political and economic power is the only foundation on which a democratic, free-enterprise system can long exist. The role of government, in Professor Simons' view, was to (1) maintain active competition within a general framework of free-enterprise rules of the game so as to stimulate efficiency and to disperse economic power; and to (2) own and operate directly those few industries where competition cannot be made to function effectively. He specifically urged:

1. Federal incorporation of all private corporations.

2. Forbidding any manufacturing or merchandising corporation to own stock in any other such corporation.

3. An upper limit on the asset size of all corporations, far below the size of the present giants.

4. Provision that no firm may be big enough to dominate its industry, the F.T.C. to determine this size limit in each industry.

5. Complete prohibition of interlocking directorates, except between unrelated industries.

6. Simplification of corporate securities to two simple types, to minimize the possibility of hidden or indirect control of corporations.

The distance of corporate behavior and influence from these norms declared by Mr. Orrick and Mr. Simons is the measure of the intensity of the radicalism of corporate collectivism. For if radicalism be defined as the operational aberration from the traditional and acknowledged norms of a society and if its intensity be gauged by the power of that aberration, then the issue is industrial autocracy and the corporate state. This is the real struggle of the consumer.

SOME SHAREHOLDER QUESTIONS FOR GENERAL MOTORS

(Appendix to Mr. Nader's statement)

1. In the light of a long and detailed patent history regarding anti-theft devices for automobiles, why did not the corpora-

[7] In the "juke-box" era of automotive design—the late fifties, the tail fin reached its most grotesque and most tapered level. The engineers were called upon to rationalize this hazardous and expensive extension as fulfilling a necessary aerodynamic fuction to improve handling. Judging by contemporary automobile design, it must be presumed that the winds have changed.

[8] *The Wall Street Journal*, May 2, 1968, reported that "for almost one year IRS has been pursuing a 'half-hearted' investigation of undercover corporate contributions to political candidates. IRS suspects that some corporations even get a tax deduction for it—i.e. law firms and public relations firms pad bills and then these firms give the overcharge to the candidate."

The Washington Post, May 18, 1968, reported that "Chrysler Corp. executives from around the country are organized to make Political campaign contributions through a Chrysler executive at the Company's Highland Park, Michigan headquarters.

tion move to adapt the best devices to counteract the age-old problem of car stealing? Would you say the decisive factor to move next year came from pressure by the Department of Justice and other public agencies?

2. Do you exchange information with insurance companies about accident injury details relating to your makes and models?

3. Why did the company sell its half interest in Ethyl to Albermarle Paper Co.—a tiny company compared to Ethyl? Why did the company sell its share in profitable Ethyl at all?

4. Kindly send a copy of your "Corporate Procedure for Approval of Technical Publicity"?

5. Kindly send me your consumer surveys from 1950 to 1960 or summaries thereof?

6. What is the nature and monetary loss of pilferage in your plants for the past five years? What are you doing about correcting the situation? Have you lost, through theft, any new cars from your plants in the past five years? If so, where and how many?

7. Which law and economics professors have you retained as consultants during the past five years?

8. What is your position on the defects in your new cars noted by the Swedish type inspection service? Please send a point by point reply by vehicle make and model?

9. What products and in what volume have you sold to Chrysler and Ford during the past ten years?

10. How many of your dealers sell other manufacturers' cars?

11. Do you maintain a national clipping service to increase your information about the kinds of accidents your vehicles experience?

12. Do you give directly or indirectly political campaign funds through lawyers, dealers, accountants or other transfer agents to political candidates or parties?

13. Is voting stock held by banks which manage GM funds voted for management?

14. May I receive cost and profit figures by division?

15. Are the minutes of the meetings of the Finance Committee which sets pricing policy, available?

16. What is GM's present policy with regard to royalties charged for and restrictions placed upon the use of GM patents by competitors?

17. What compensation is paid to employed inventors for their inventions?

18. Are the minutes of all meetings of the Executive Committee and the full Board available?

19. May I be informed on business dealings with companies which are represented on GM's Board of Directors?

20. May I receive copies of the records of meetings and discussions with other members of the Automobile Manufacturing Association with regard to safety standards?

21. What commissions and kickbacks ("retrospective commissions") do dealers receive on finance and insurance charges?

22. What percent of dealers' income does #21 represent?

23. What is the range of carrying finance charges exacted by GMAC and what is the justification for varying charges?

24. What is the amount of retrospective commissions received by GM and/or its dealers on liability auto insurance and credit life insurance sold in connection with the sale and financing of GM cars? (Insurance underwritten by Continental and Prudential respectively.)

25. What are the exact amounts spent for research—broken down by kinds of research and number of personnel involved?

26. May I receive figures on minority employment and dealerships? Why hasn't Motors Holding Company, whose purpose is to assist dealers in getting started, done more to assist members of disadvantaged minority groups?

27. What amounts are spent directly and indirectly each year for defending or promoting the company's interests before legislation and administrative forums, both through the company and through the AMA?

28. What is the amount spent annually for advertising?

29. May I receive the factual data supporting claims made in 1968 model year ads about performance, economy and safety?

30. Have political contributions ever been funneled by General Motors through lawyers or ad agencies?

31. May I receive figures showing the profit on Federal government contracts?

32. What assistance has GM rendered to American Motors to keep it afloat?

33. What effect would a reduction of $125 in the price of GM cars have on GM's profits and on the industry in general?

34. Does GM have dealings with suppliers to whom it has lent money? If so, what preferential concessions did GM get?

35. What is GM's estimate of the cost of annual style changes?

36. What products and services do you sell to competitors?

37. What is GM's policy toward discount sales houses and auto brokers?

38. What studies and technical information has GM developed concerning the feasibility of steam and electric cars?

39. What percent of profits from foreign investment is reinvested in country of origin?

40. What is GM's annual break-even point for automobile sales?

41. May I receive a detailed listing of expense account items of higher executives?

42. Please provide a list of all individuals who receive the benefit of special discounts on GM products, commonly referred to as "Preacher's Price" in the trade (similar to Ford's X-Plan discussed in the Ribicoff pricing hearings earlier this year). Please indicate the type of car, size of discount and the criteria for selecting recipients of this special discount.

43. Please provide a list of federal, state and local government agencies or personnel who lease, rent or borrow GM automobiles from GM. Please indicate the criteria for selecting the recipients of this leasing, renting or borrowing privilege.

Attached is a description of the GM-shareholder relationship which is convenient background to the questions which I have submitted. These questions are illustrative of the kind of questions that could legitimately be asked by a shareholder and which, in the main, would not be answered by GM. In short, the attached description is the myth and GM's non-responsiveness will reveal the reality of management's respect for shareholder inquiries.

PUBLIC RELATIONS: FULL DISCLOSURE

One of the most fundamental of all the public relations functions with which management is involved is stockholder relations. In fact, the better run a publicly held company is, and the more enlightened its management, the more it is concerned with the opinions of its owners, the holders of the company's stock.

It is no exaggeration to say that good managers treat the stockholder with tender, loving care. His understanding of how his company is directed, what it does and why, the results of management's decisions, and the context within which they are made is essential. The stockholder is, in many ways, king, for without him there can scarcely be a modern corporation.

The giving of full information to the stockholder is relatively new, as business operations go. Today, however, all well-managed, profitable, efficient public companies continuously keep the stockholder's views in mind and make every effort to keep him fully informed.

In some companies stockholder relations fall under the direction of the corporate secretary, assisted by the public relations department. In others, stockholder relations are supervised directly by the public relations chief and members of his staff. But whatever the line of command, top management never lets stockholder relations get far out of sight.

In the case of General Motors Corporation, the chairman of the board of directors, as chief executive officer, has direct responsibility for stockholder relations. It is a mark of the importance of this function to the corporation that it is both directed and followed closely by him. Under the chief executive officer, the vice-president in charge of public relations works with six of his full-time people on stockholder relations. In addition, members of other staffs are called on as they are needed.

The nation's largest industrial company has 1,060,000 holders of common and preferred shares, compared with only 355 stockholders when General Motors was started in 1908. It was forty years ago that GM began its active program of stockholder relations.

Alfred P. Sloan, Jr., now honorary chairman of the board, has spent sixty-seven years with the company (fourteen of them as president and nineteen as chairman) and was farseeing enough to draw the guidelines of GM's stockholder relations, which were published in advertisements in the early 1920s. The heading on the advertisement was "A Policy of Giving the Facts." This emphasis on what Mr. Sloan called "the responsibility of management to stockholders and the public alike" is still the rule at the company he did so much to build.

There are many benefits that accrue to General Motors from its policy of letting the stockholders know of the progress of the business. Well-informed stockholders are an asset, of course, because they help the general public to understand GM, since every stockholder is an ambassador to his friends and the public at large. The happy, knowledgeable stockholder not only keeps his investment in the company, but is also a customer for its products and tends to be a salesman for them as well.

According to Frederic C. Donner, chairman and chief executive officer of the company, "a major responsibility of management is to be constantly aware of the interests of the companys' owners—the stockholders. General Motors continuously has followed this basic philosophy through its shareholder relations program for the past forty years. We give our stockholders full and complete information on the operation of their company."

To give this "full and complete information," General Motors, in addition to four dividend mailings with enclosures to all its stockholders, sends seven regular mailings to stockholders each year: the annual report, the notice of the annual meeting and proxy statement, the report of the annual meeting, three quarterly reports (a non-automotive product folder is sent along with the first-quarter report), and the automotive product folder (sent in the fall after the announcement of new car models). In addition, special mailings of informational material are sent to stockholders when there is a particular need.

One indication that the information G.M. supplies to its stockholders is satisfactory to them is that so few write asking for clarification. In 1962, only 5,868 of the more than 1,000,000 stockholders wrote to the company, and this total includes the comments sent in connection with returned proxies and inquiries about products. Each stockholder is answered either by Mr. Donner or by some other executive who has special knowledge and background in the field the letter writer is concerned with.

Every new stockholder is welcomed by letter by Mr. Donner. In cases in which stock is sold a letter is sent from Mr. Donner as well, asking the former stockholder to write him if the sale of the stock has been related to "any aspect of the corporation's policies or operations," and offering to

continue to provide company information should the former owner like to receive the material.

The annual meeting of the company is another way of keeping the stockholder informed of the company's policies. Since 1948 it has been held at the Buick-Oldsmobile-Pontiac assembly plant in Wilmington, Delaware, and the attendance has gone from 3,000 in 1960, 3,700 in 1961, and 4,100 in 1962, to 5,100 in 1963.

For the last annual meeting, stockholders came from twenty-nine states and the District of Columbia. They not only heard their company management's report and had their questions answered, but also took a plant tour, had a buffet lunch, and saw a display of the company's automotive and appliance products. It is interesting that within two weeks of the meeting, reports were mailed to all stockholders—quite a job, to be especially appreciated by those who know something of getting a report written, illustrated, cleared, printed, and mailed.

So interested is GM management in its owners that it has compiled a profile of them. Of the million-plus stockholders 770,000 are individuals and 54 per cent are women.

Stockholder relations are one aspect of public relations that wise management is always anxious to develop, for it knows the clear connection between a profitably managed company and those who own it.

—L. L. L. GOLDEN.

WHY NOT VOTE FOR ANTIGENOCIDE CONVENTION?—WHAT ARE WE AFRAID OF?

Mr. PROXMIRE. Mr. President, I have spoken for several days about the conflict in Nigeria-Biafra and particularly about those unbelievably inhuman incidents that bespeak tragedy not only for those starving and dying but also for every man aware of what is going on.

Several other Senators have condemned an inhumanity of brother to brother that amounts to genocide, plain and simple. Thousands are dying daily from starvation and disease. Political maneuverings by both sides are callously using the lives of innocent men, women, and children as expendable pawns in a ghastly game of human chess.

Yet as I have pointed out daily for the last year and a half, the Senate has still failed to ratify the pending Human Rights Convention on Genocide. This is particularly ironic and tragic when one realizes that the United States was the leader in securing U.N. approval of this convention back in December of 1948, almost 20 years ago.

Assistant Secretary of State Ernest A. Gross, in speaking before the General Assembly, made clear our leadership role and our deep commitment to the provisions of the Genocide Convention. Secretary Gross said:

> It seems to the United States delegation that in a world beset by many problems and great difficulties, we should proceed with this Convention before the memory of recent horrifying genocidal acts has faded from the minds and conscience of man.

Mr. President, has the memory of recent horrifying genocidal acts faded from the minds and conscience of man? From Senate failure to ratify this convention, which our Government took the lead in creating, this would seem to be the sad reality.

Yet, we now have before us scenes of children with distended stomachs, infants with skeletal arms dangling uselessly from emaciated bodies that are living lessons in human bone structure, and on and on until one's mind reels in disbelief. These are the facts.

During and after World War II, the horrors of Buchenwald, Dachau, Lidice, and Belsen slowly became known. We were cushioned somewhat by the passage of time and the distance between these grisly blots on mankind's history and our own comparative safety and happiness. But those days are over. Lagos is a short jet trip from the United States. Time, Life, Newsweek, and this morning on page 18 of the Washington Post, we have the pictures of starving children that are now probably dead.

We have before us, Mr. President, a replay of what happened during World War II. We have that reminder of horror that should also be a spur to action. There should be a groundswell of indignation in this country that should sweep into the very Senate Chamber and demand that this body place the United States firmly behind all formal condemnations of that most horrible crime: Genocide.

What are we afraid of? Do we fear world opinion? Do we fear our local prophets of doom? Do we subscribe to their splitting of anachronistic legal hairs while children the same age as yours and mine drift from starvation to coma to death? We are fighting in Vietnam against substantial world community opposition, yet we persist. Would ratification of the Genocide Convention make us more open to attack than we are already? Are we ashamed to compare our record over the last 20 years with Russia? With South Africa? With Rhodesia? With, indeed, any country in the world?

I would hope the answers to those questions would be forthcoming from this body by immediate ratification of the Genocide Convention. I would hope the Senate would see, in the hollow, hopeless stare of those two gaunt children pictured in this morning's Washington Post, a forecast of what can and will happen again unless the United States and the entire world take specific steps to establish an international mechanism that will make repetition of such senseless tragedies impossible.

Failure of this body to become involved now through ratification of the Genocide Convention and its practical implementation will perhaps make us no less guilty of future horrors—horrors that must make God Himself wonder and perhaps give credence to the phrase, "God is not dead; He just doesn't want to get involved." If this sort of vicious activity is permitted to continue by free men, living in security and abundance, then I do not know that I could really blame Him for not wanting to get involved. We will have failed Him as we have failed ourselves.

CAPTIVE NATIONS WEEK

Mr. RIBICOFF. Mr. President, during this, the 10th observance of Captive Nations Week, we look with deep concern to the people of the world who are denied their freedom.

We know that 10 years have passed and still millions are oppressed. For many this is reason for pessimism.

But we also know that strong strains of nationalism and independence are working their will. There is much cause for optimism.

A wave of restlessness moves through the countries of Eastern Europe. Our newspapers tell us once again what we already know: A yearning for freedom is common to men everywhere.

We earnestly hope that in our time the winds of change will take hold so that the ways of freedom will be the way of life for people throughout the world.

STARVING VICTIMS OF NIGERIAN CIVIL WAR MUST GET RELIEF

Mr. HARTKE. Mr. President, last Thursday, with reason and compassion Senator BROOKE called upon the leaders of both sides in the Nigerian civil war to allow a relief program under international auspices to reach the innocent, starving victims of that conflict.

I join with his expression of hope that this program will be established immediately. There are available routes to many of the victims, and there is a neutral organization able to act—the International Red Cross.

Mr. President, there is no political principle so certain, so decisive, so inclusive as not to admit of the compromise that would permit alleviation of the desperate straits of innocent individuals. This is true in the Vietnam war as it is in the Nigerian conflict. Leaders everywhere must make greater efforts at securing relief for innocent victims of violent conflict.

RADIATION CONTROL

Mr. MAGNUSON. Mr. President, last week the Senate Committee on Commerce ordered reported without objection H.R. 10790, the Radiation Control for Health and Safety Act of 1968, as amended by the proposals of the senior Senator from Alaska [Mr. BARTLETT].

One type of electronic product to be controlled by this bill are X-ray devices used for nondestructive testing and inspection.

I am asking unanimous consent that a statement by Senator BARTLETT in this connection be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR E. L. BARTLETT ON INDUSTIAL RADIOGRAPHY AND CONTROL OF ELECTRONIC PRODUCT RADIATION

Although much of the testimony that the Senate Commerce Committee heard during the recent hearings on control of radiation from electronic products had to do with medical X-ray equipment and with X-rays emitted from certain color television sets, the proposed legislation embodied in H.R. 10790, as revised by the Senate Commerce Committee, extends to other consumer and industrial products that may also be a source of radiation, either by design, or by accident or defect in design and manufacture.

Today I would like to call attention to a small but growing part of American industry, which is radiation processing of foods and materials, and also to the growing application of X-rays for non-destructive testing and inspection.

James Terrill, Director of the National Center for Radiological Health in his testi-

mony last year and this year has confirmed our understanding that nonmedical applications of radiation are growing in commerce and industry. This radiation is produced by manufactured products that include X-ray machines, particle accelerators, Van deGraaf machines, flash X-ray units and neutron generators. Mr. Terrill estimated that there were presently about 150 particle accelerators, 150 neutron generators, 300 Van deGraaf machines, and 10,000 industrial X-ray machines in use in industry, training and research. Over the past 5 years about 8,000 X-ray tubes have been sold for nonmedical equipment. Other data indicates that sales of industrial X-ray equipment are increasing about 10 percent annually. About 20,000 people use this equipment and thus may be exposed to radiation and may possibly expose fellow workers to radiation. Based on surveys by State and Federal health agencies, it appears that perhaps a third of these installations are not properly instrumented to detect such exposures. There are at least six companies in the United States that make powerful machines to provide radiation for processing of foods and materials.

These figures indicate to me that new sources of X-rays are daily entering into our factories, into commercial testing services, into food industries. While the number of people potentially exposed may still be small, and few products of this kind may be sold as consumer products, the Federal government should be concerned because radiation presents a hazard very different from many of those found in manufacture or service industries. A person's senses warn him of heat, or excessive noise, or fumes. But nature perhaps did not anticipate large amounts of radiation in the environment and so man's senses are insensible to it. Furthermore, as the testimony made abundantly clear, exposure to ionizing radiations such as X-rays may injure not only the persons who are exposed, but also their unborn children through genetic damage. Considering that industrial uses of X-radiation is increasing, and that most of the equipment involved is rather expensive, it is sensible now to include it within the legislation so that standards can be set which will both protect the machine operators and fellow workers, and also protect the owner against later costs of modification by requiring design and manufacture of safe equipment now.

Non-destructive and testing applications for X-rays are found in many industries. Steel companies use X-ray machines to test large castings for flaws. Analytical chemists and others use X-rays to analyze unknown substances. Airlines and aviation maintenance companies use X-rays to check aircraft engines. Electrical utilities use them to test the condition of insulators. And the possibilities for non-destructive testing with X-rays continue to grow as consumers call for more reliable products. A company need not be large to use X-rays for testing and inspection. I have seen advertisements for a desk top X-ray unit which can be used by anyone in an office or shop. The brochure speaks of "instant X-rays where and when you want them. . . take them yourself, with office machine simplicity." Looking inside, we find the further inducements:

"Here is a versatile new instrument that permits you to take your own X-rays—when and where you want them—at your workbench where your problems are. . . .

"Operation is as routinely safe and simple as a blueprint machine or an office copier. Just insert the subject, select the exposure time and voltage, push a button. . . ."

Concerning safety, the brochure says:

"Operator safety is assured by internal lead shielding and an automatic interlock switch that disconnects the X-ray circuit whenever the compartment door is not completely closed."

This manufacturer advertises his X-ray product as safe, and I would assume that he is sincere and believes his statement, and that probably he is correct. But there is some uncertainty. Those who suffered loss of air-conditioning during the first heat blast of this summer know that things like contacts and relays and interlocks which are supposed to function reliably sometimes do not. So there is the question whether the built in safety features actually work as intended, whether the design takes into account the abuse that much industrial and office equipment receives; whether the quality of manufacture enables the design features to perform properly.

H.R. 10790 will enable the Secretary of Health, Education and Welfare to set standards which will apply to radiation producing products such as this for the benefit of both the users and of the manufacturer. And I daresay that enterprising manufacturers will soon find that customers abroad set value upon equipment which meets U.S. radiation standards.

The committee had industrial X-ray interests represented at our hearings. Testimony by Mr. Harvey Picker and Mr. J. A. Reynolds of the Picker Corporation, a leading manufacturer of industrial and medical X-ray equipment clearly supports what the committee has in mind. Let me quote a few highlights from their statements:

"We feel that legislation that will keep radiation producing apparatus out of the hands of people who don't know how to use it properly and out of situations where it can do damage is very desirable. . . .

"We believe that standards that establish minimum permissible levels of stray or unwanted radiation from both medical and industrial X-ray apparatus are desirable, but that they should recognize the differences in objective and use. . . .

"Legislation should also cover the qualifications of those who operate and use the apparatus, and it should recognize that these qualifications may be very well different in the case of industrial and medical."

This testimony by people actively engaged in the manufacture an sale of industrial X-ray equipment not only supports the purpose of H.R. 10790 but also shows that some leaders in the industrial radiography field are prepared to accept and work with the Government in measures to assure safe design and manufacture of industrial radiation products.

As for commercial radiation processing, to indicate what is happening in this field, consider the following excerpt from a recent report of the Atomic Energy Commission on the state of the nuclear industry in 1967. The AEC reports the industry continues to show a growing interest in commercial radiation processing. This field is divided into machine or accelerator-produced radiation and isotope radiation, each of which possess some advantages and disadvantages over the other. At present, according to the AEC, over 90 percent of all the radiation facilities in the United States use machine produced radiation rather than that from radioisotopes. Radiation processing applications mentioned by the AEC includes sterilization of medical supplies, food preservation, manufacture of wood plastics, manufacture of shrinkable plastics, preparation of biodegradable detergents, synthesis of chemical compounds, manufacture of solid state devices, and curing of paints and special coatings.

The radiation processing market has been estimated in terms of the value of products processed during the past few years to have increased from $20 million for 1960 to an estimated $250 million for 1966.

As for the future, the example of wood plastics shows the hopes held for this new radiation produced product.

One company in Virginia is offering wood plastic products commercially. They produce items such as flooring, building products, musical instruments, sporting goods, textiles, and furniture.

A company in Georgia is producing experimental quantities of wood plastic.

A company in Alabama was considering construction of a wood plastic facility with a capacity of about 3 million board feet per year, which would manufacture building materials, flooring, marine products, and novelty items.

Here we see the start of what may be an important new industry, one that can expand into many parts of the country. Because the X-ray machines they will use are very powerful and produce great amounts of radiation, it is all the more desirable that H.R. 10790 be passed so that workers in these new plants will be protected against poorly designed machines, the companies will be protected against unexpected requirements for possible modifications to their radiation equipment at some later time, and companies that comply with protective standards and practices will not suffer from unfair competition from companies that do not.

The AEC report makes a point I would like to explore further. It said it estimated that only about 10 percent of the radiation used in this new industry comes from radioisotope sources, that 90 percent comes from machines. Yet of these sources of radiation, the 90 percent presently are under no form of Federal control, and only the 10 percent have to meet the licensing requirements of the Atomic Energy Commission. This is a curious inversion.

Perhaps I am slow at understanding things, but it seems to me that if radiation from a lump of radioactive material presents enough hazard to call for Federal regulations, then the same or similar radiation from a machine deserves the same attention.

Our industrial witnesses shared this view.

Mr. Reynolds in replying to a question that compared installation of a high powered radioisotope X-ray source with an X-ray machine said: ". . . as far as I am concerned, if one should have a rule as to the installation, for example of an iridium 192 unit exactly the same requirement should apply to the use of 320 kilovolts for radiographing the same casting."

Furthermore, in his experience, the Picker Company had found it could live with AEC regulations, and that these regulations had been effective.

So we have a gap.

Let me illustrate a bit more the width of this gap and the basic inconsistency of its existence by pointing out some of AEC's requirements for operation of an industrial radiographic unit that obtains its radiation from radiosotopes.

First of all, the owner of the unit must have an AEC license to have and use it. And the AEC does not automatically issue such a license as automobile licenses are issued. Instead, AEC reviews the design of the unit, and of its installation, and will not approve the unit unless it meets AEC's standards.

Next, AEC requires that the radiographer who does the work or supervises its operation, and any assistant meet specific qualifications.

The AEC's regulations in Title 10 of the Code of Federal Regulations, part 34, specify that the licensee shall not permit any person to act as radiographer until such person:

(1) Has been instructed in the subjects outlined in Appendix A of this part and shall have demonstrated understanding thereof;

(2) Has received copies of and instruction in the regulations contained in this part and the applicable sections of Part 20 of this chapter, AEC license(s), and the licensee's

operating and emergency procedures, and shall have demonstrated understanding thereof and

(3) Has demonstrated competence to use the radiographic exposure device, sealed sources, related handling tools and survey instruments which will be employed in his assignment.

The regulations lay out similar requirements for the assistant.

The list of subjects specified for the AEC's training requirements include: Fundamentals of radiation safety. Characteristics of gamma radiation. Units of radiation dose and quantity of radioactivity. Hazards of excessive exposure to radiation. Levels of radiation from licensed materials. Methods of controlling radiation dose. Radiation detection instrumentation and its use. Radiographic equipment.

Moreover, the AEC regulations require that radiation survey instruments used to assure radiation control be calibrated at intervals not to exceed 3 months and after each instrument servicing. The licensee must describe his calibration facilities, supply a copy of his calibration procedures and submit the calculations pertinent to the calibration procedures.

Now what do we find in comparison when we look at machine sources of X-rays for industrial processing of materials? You will have to look very hard, for there are no Federal regulations. The Food and Drug Administration does have a regulation about the amount of radiation that a side of bacon may receive, but there is no Federal regulation to assure that the process machinery is not exposing operators and nearby workers to X-rays in excess of recognized limits.

Mr. President, this glaring gap in radiation control should be closed soon before so much equipment is manufactured and installed that users may be tempted to resist future safety measures simply because of the costs. The time to head off risks of unacceptable radiation exposures in the radiation processing industry, and in industrial non-destructive testing is now. The information about radiation effects exists. There is ample experience to show that Federal regulations in this field can work, are effective, and need not stifle further technological progress. The major capital investments for these new industries still lie ahead, so that safety in design and manufacture can be built in.

These are the reasons why H.R. 10790 as it is being amended by the Senate Commerce Committee does include and should include authority for the Secretary of Health, Education and Welfare to set standards that can apply to industrial X-ray equipment. In my opinion they are good and sufficent reasons.

THE PATRIOTISM OF DISSENT

Mr. MONDALE. Mr. President, the Family Economics Bureau of the Northwestern National Life Insurance Co. released recently a report analyzing the current situation in the United States. It is a balanced report, especially in its critique of dissent, noting that the vigor of dissent today is a sign of the basic health of this country. Those who care enough about the United States to criticize it are actually, in the words of the report, exercising the "patriotism of dissent." Mr. President, I ask that an editorial published in the Bemidji Pioneer of May 2, 1968, commenting on the report, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UP WITH AMERICA

No one can be blamed for wondering, in a day when it is fashionable to sneer at the American way of life, whether he was so lucky after all to be born in America.

Sen. Fulbright says American society is sick. America is on the verge of moral and nervous collapse, says John Steinback.

It seems to us that the time has come to ask "What's right with America?" and to answer the question emphatically.

America has faults, all right. (So does every other country.) History may reveal, however, that the greatest fault was ruinous lack of constructive, non-cynical criticism and widespread amnesia about the advantages of living in America.

The fall of America, if it comes, may be as much the fault of critics who deny the good in their country as of the flaws the critics carp about.

President Johnson said earlier this year when he proclaimed 1968 Human Rights Year: "Rights not perceived cannot be prized. Rights not understood are rights not exercised, and soon weakened or destroyed."

A chronicle of progress and achievement in America has been assembled by the Family Economics Bureau of Northwestern National Life Insurance Co. It was the result of a study that had as its aim "to prepare an antidote to biased and unreasoned criticism of the American system."

Results of the study effectively challenge the impression, left by critics, that American society is deteriorating.

A report on the study advances the opinion that much of the disillusion abroad in the land is due to a greater awareness of problems, many of them more severe in the past.

For example, there was one narcotic addict for every 400 people in 1914, but only one for every 3,500 in 1960.

Dr. John P. Roche, commentator on American society and professor of social thought at Brandeis University, sees civil rights awareness as a sign of progess. He says, "It is curious how those who bemoan the present state of American freedom overlook the undeniable historical shift from acceptance of segregation to civil liberties consciousness."

Similarly, discontent can be seen as an advantage because it usually leads to progress. Arthur Schlesinger, Jr., Harvard historian and advisor to President Kennedy, says that "discontent, ferment and rebelliousness (have) traditionally been the health of our society."

The insurance company study makes it plain that there's plenty right with America. We'd better wake up and realize it before cynical and unreasoning critics talk us all out of a country.

DR. N. V. THIRTHA, BANGALORE UNIVERSITY, INDIA

Mr. HART. Mr. President, over the years, we have become so accustomed to the Fulbright-Hays exchange program that we sometimes forget that it is a continuing exchange from which this Nation and others benefit in ways not always measurable.

During this past school year, the Wayne County Intermediate School District had the honor and good fortune to have with them Dr. N. V. Thirtha, of Bangalore University, India. Dr. Thirtha's contribution to schoolchildren and staff members in Wayne County schools, and to education in Michigan and in this Nation, has been sizable. At a time when understanding people different from ourselves is so important, we could not have had a better person to work with us. He has done much to help professionals and students to become more knowledgeable about India and its culture. He also helped our children and staff to better understand their own problems and strengths as an educational organization and as a nation.

The high regard Michigan has for Dr. Thirtha and the Fulbright-Hays program is further explained in the joint resolution from the house and senate of the State of Michigan. I ask unanimous consent that the concurrent resolution of the State of Michigan, in tribute to Dr. Thirtha, be inserted in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE CONCURRENT RESOLUTION 280

A concurrent resolution of tribute to Dr. N. Vyas Thirtha

(Offered by Representatives Waldron, Ryan and Smart and Senators Lodge, Levin, Huber and Kuhn.)

Whereas, Dr. N. Vyas Thirtha concludes a year of serving as curriculum consultant, in the area of India and South Asia, at the Wayne County Intermediate School District, on a Fulbright-Hays Exchange Program and returns to India where he will become Vice President of Bangalore University; and

Whereas, Dr. Thirtha has worked as a teacher in secondary schools in India for over eight years, and as a member of the faculty of Education at Osmania University for over ten years, where he holds the position of Professor of Education and has participated in the program of teacher-training and research in India; he holds a Master's degree from an Indian University and obtained his Ph.D. from Stanford University, majoring in "Social Foundations and Education" with a minor in "Anthropology" and has written several books and research articles on Indian problems, with a special emphasis on culture change in the subcontinent; and

Whereas, Dr. Thirtha was imprisoned for over a year by the British government in India for his participation in the "Quit India" revolution; he comes from the Gandhian tradition of Indian nationalism and has not merely studied in depth the Gandhian ideology but also has participated in the Gandhian movement for national independence and the constructive program in rural India; and

Whereas, During Dr. Thirtha's ten months here he has spoken to and worked with thousands of students and the faculties of over 100 elementary and secondary schools in Wayne County; has conferred with four community colleges and the faculties of seven universities, sharing his scholarship from coast to coast, and has been a contributor at 22 professional conferences throughout the country, speaking before church groups, service clubs, and human relations councils; conducting research which adds to the knowledge of, and points out the urgent need for, cross cultural understanding, both among Americans of different groups and between countries; now therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature, speaking for themselves and for the people of the State of Michigan, congratulate Dr. Thirtha for his scholarly achievements and express our appreciation for his extensive work in education and significant contributions to international understanding; and be it further

Resolved, That Dr. N. Vyas Thirtha be presented with a copy of this resolution.

Adopted by the House of Representatives June 3, 1968.

Adopted by the Senate June 4, 1968.

BERYL I. KENYON,
Secretary of the Senate.
T. THOS. THATCHER,
Clerk of the House of Representatives.

CONSENT OF THE GOVERNED

Mr. JACKSON. Mr. President, the age-old problem of reconciling individual freedom and public order is much discussed these days from many points of view. On July 4, Hon. Eugene Rostow, Under Secretary of State for Political Affairs, delivered an address on this subject at Monticello, under the auspices of the Thomas Jefferson Memorial Foundation. Secretary Rostow is a long-time advocate of liberal legislation and progressive causes. He has made an informed and stimulating interpretation of the scope and limits of personal freedom in our democratic society, in the light of contemporary issues and current social protests.

I commend this address to the attention of Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CONSENT OF THE GOVERNED

(Address by Eugene V. Rostow, Under Secretary of State for Political Affairs, delivered at Monticello, under the auspices of the Thomas Jefferson Memorial Foundation, Charlottesville, Va., July 4, 1968)

We have come together at a magic place, symbol of all that is best in us, to celebrate our Revolution, and to consider its part in our lives.

The Fourth of July is at once the most frivolous and the most solemn of our holidays. It has always been an occasion for bonfires and small-boy mischief, for watermelons and whisky and pink lemonade. But it is much more. It is also a day when the most angry and cynical among us hear, for a moment, what Lincoln called "the mystic chords of memory" which stretch "from every battlefield and patriot grave to every living heart and hearthstone" of the land. All who have broken bread in the communion of our life must rally to this call. At some level of consciousness, every American believes in the dreams and hopes which make our people one. Beyond the pains of daily life, with all its selfishness, its evil, and its violence, few can deny "the better angels of our nature." In overwhelming majority, we believe in their gospel, as Justice Holmes once said, because we can't help it.

So, of course, do many others. The vision of America according to Thomas Jefferson stirs every people. His words, and the memory of what we did in their name, are a living part of the literature of liberty throughout the world.

Today the word "Revolution" is all about us. Wherever we look, we see processes of change men call Revolutions. We talk of Revolutions in the relations of the races, the sexes, the classes, and the generations, Revolutions in the universities, in the political parties, and in every form of fashion. We are first among the nations in undertaking the boldest social revolution of all—the determination to eliminate the oldest scourge of mankind, poverty itself. In this rich and generous country, we have declared, the poor need not always be with us. On the contrary, we are seeking to draw them into the mainstream of American life as full and equal participants.

Let me start by distinguishing the problems of legality I wish to examine today from the other events to which the word "Revolution" is so often applied.

II

The American Revolution of 1776 was an act of rebellion against constituted authority. It was a breach of existing law, which gave rise to the organization of American society under a new system of laws, made by the revolutionaries, and intended by them to be eternal. The harshest war of the nineteenth century confirmed their thesis that the Union of 1789 was an indissoluble compact, made by the people themselves, and not to be broken by the states.

Is there a paradox in the position of our Founding Fathers? Did they claim for themselves a right they would deny to others—the right, that is, to decide for themselves which laws to obey, and which to disobey?

It is the essence of the American mystery that the Revolution of 1776 be deemed a rightful act, a lawful act, and not simply a coup d'état, to be followed by another, and later on by more. The Declaration of Independence was not a clever piece of political propaganda, putting a plausible face on a naked seizure of power, but the statement of a principle basic to our nature, and to the nature of our society.

We are people of the Book, who must live by the Law. If as a people we break the positive law, we must know first that our act is justified in the nature of law, and as a matter of law—justified because the law we broke was void, or that it had been repudiated, or was contrary to Higher Law.

The authority of the Constitution and the legitimacy of our social order derive in the end from this conviction about the character of our Revolution.

The principles of liberty and equality set out in the Declaration of Independence and codified in the Constitution are the strongest force in our history. Year after year, they burst the bonds of hatred and of habit, reshaping our minds and then our institutions. Their moral power gives coherence and direction to our public life.

The moral power of the Declaration of Independence and the Constitution is not rooted in appetite, or in success. The ideas of the Declaration are part of our bone not because the revolutionaries were romantic adventurers, not because they won, but because we believe in what they did and said. The Declaration has been and remains one of the chief themes in the symphony of our history because to us, as communicants in the creed of American society, its ideas have the sanction of being right—right as a justification for the Revolution, and right also as a statement of our most cherished ambitions for American society.

I do not intend by this contention to minimize the significance of violence and lawlessness in our history. From our treatment of the Indians to the days of the Ku Klux Klan and the Molly Maguires, we have known crime in our labor and race relations, in our politics and even in business. What I do mean is that thus far, at any rate, our instinct after an outburst of violence has always been to seek a wise and generous solution through law for the conflict which gave rise to the violence. Thus the Clayton Act and the Wagner Act followed the bloody strikes and bloody labor struggles of the generation before 1912, and then later of the twenties and early thirties. And now civil rights and poverty legislation have been passed in the wake of recent efforts—and sometimes of violent and disturbing efforts—to see to it that the promise of the Fourteenth Amendment is in fact at last fulfilled.

The idea of legality is fundamental to the theory of the Declaration both as a revolutionary and as a constitutional act.

The case for revolution which Jefferson wrote does not depend upon his eighteenth century language of universal natural rights. It is based on a more general theory about the nature of a free political community, a free people, and a nation.

I do not intend to apologize for Jefferson's theory of natural rights, or to suggest that it is no longer sensible to speak of mankind in general, in the tolerant and civilized eighteenth century way, rather than about the Russians, the Americans, and the Chinese who live in different societies and are shaped by different cultures. Of course men are products of particular cultures. But they are also men, more and more obviously caught up in a shared dilemma. The state of our tortured planet requires us somehow to invoke our common humanity in order to control and restrain our all too common inhumanity.

The Declaration put the essential legal justification for our Revolution in these terms:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government, becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its power in such form, as to them shall seem most likely to effect their Safety and Happiness."

These propositions rest on two doctrines which are the implicit predicate of the Declaration.

The first was the theory of the state as a social compact, formulated for the modern world by Locke and Rousseau but with roots that extend back through the Middle Ages to classical Greece. While the idea of a social compact is of course something of a metaphor, a fiction, it remains the essential idea of all modern democracies, and indeed of any community where authority rests on living custom rather than on force. For all who believe in popular and representative government, the powers of government must be deemed to derive from the consent of the people as the ultimate source of sovereignty, and not from the barrel of a gun. The social compact we imagine is hardly a formal document to be read like a deed. But it is an understanding nonetheless, binding all who share the culture of a society of consent, a society in which the citizen participates freely in the making of law, and in its public life.

The second doctrine basic to our Revolution was a particular theory of the British Empire, first formulated by Franklin, and generally accepted in the colonies by 1776. According to that theory, the colonies were societies of free men, established in the wilderness under their own legislatures, and linked to Britain only through allegiance to the Crown. The Parliament of Westminster had not authority over the colonies, Franklin argued, any more than the colonial legislatures had authority in England. In the years immediately before 1776, the attempts of Parliament and of the King to govern the colonies breached older habits, and the constitutional rules on which the association with Britain had been based. These were acts of usurpation, Jefferson and his colleagues charged. Repeated efforts at conciliation having failed, the colonies were therefore justified in "snipping the thin gold thread of their voluntary allegiance to a personal sovereign," as Professor Becker put it.

Thus the American revolutionaries could claim that the King had violated the law of our relationship, and that our Revolution was no more than a recognition of the fact that the ties of allegiance had ceased to exist.

III

Much flowed from the doctrines on which the Revolution was based.

A great deal of our history has been de-

voted to Jefferson's central proposition that the just powers of government are derived from the consent of the governed. For the thesis has a positive as well as negative side. It was invoked to justify Revolution. But its obverse was equally clear. In a society of consent, where men were free to go if they wished, they were bound—morally bound—by the laws they themselves had helped to make.

This principle was the prologue and foundation for all that was to come—the development of the thirteen rural colonies under their new Constitution into a vast continental nation which then became a world power.

At every step of the way, men have refreshed their minds by returning to these first principles. The idea of law, as I remarked a few moments ago, has a central place in the hierarchy of our values. This natural cast of our thought has been reinforced by the special duties we have given our Courts in enforcing the constitutional limits on the authority of all branches of our Government. Defining "the just powers" of government has therefore been a constant preoccupation of our judges, our Congress, and of our public opinion.

IV

Order has always been a complex problem for self-governing communities based on a wide measure of personal freedom. Yet such communities have a particularly subtle instinct for order. Cicero spoke of the *concordia,* the unspoken agreement on fundamentals, which defines such a society, and makes personal liberty possible. In his usage, the word means the universe of indispensable principles to which all men of a society are loyal. Without concord in this sense, no society can long endure in freedom. A community, after all, is a psychological, not a physical entity. It is not a congeries of people, places and buildings, but an association of people who share the same customs and values. Their law sums up their essential ideas of social harmony. It defines the relations of men to each other, and to the state, and sets limits of civility for their conflicts.

Every system of law contains another element as well, its yeast, the force essential to its vitality, and to its capacity for growth. Montesquieu called this inner principle the Spirit of the Laws, the body of ideas and aspirations which guides the response of the law to changing ideas and changing conditions.

The Declaration of Independence and the Constitution which grew from it reflect both aspects of the law of American society—its code of the moment, and its goal for the future.

They spoke for the living law of the late eighteenth century when they proclaimed the equality of man, but compromised with slavery in order to form the Union.

But both these germinal documents have another dimension. They state the Spirit of our law, in Montesquieu's sense, and the Constitution does so in a form which can be legally enforced. It thus provides a standard against which to test the validity of positive law. By invoking the Constitution, we maintain a steady tension between the actual and the ideal in our lives, and seek to keep the law abreast of changing conditions, and changing concepts of social justice.

The need to define the "just powers" of the government has arisen in a variety of forms, and in a number of forums. It has been the leitmotif of many branches of constitutional law and politics.

Jealous of our liberties, and dubious about authority, we have been more solicitous of the individual than most nations in drawing the line between freedom and order. Over and over again, we have considered how far governments and private groups can go in securing or restricting the unalienable Rights of Man. Confident of the strength of our social order, we have protected the rights of minorities against the tyranny of the majority, in developing our law of freedom of speech and of the press, and in defining the permissible limits of peaceful assemblies. Our law of civil liberty is notably robust, and gives the individual an unexampled latitude in expressing his views about every conceivable subject. From tme to time—and notably at the present time—we have also had to consider how the just powers of the majority should be protected against the vehemence of a minority convinced of its rectitude, and determined to have its way even when it fails to persuade.

In considering how our customs and our law have defined the limits of personal freedom, we should distinguish two classes of problems, which sometimes overlap.

The first is testing the constitutionality of positive law, the second, breaches of concededly valid law as acts of social protest.

Under the Constitution, the courts cannot pass on the validity of a law, a contract, or a custom unless the issue is necessarily raised in the course of a genuine case in controversy. In most instances, a citizen must break the law in order to persuade the courts to pass on its constitutionality.

It is common error to think of such breaches of the law as acts of disobedience to law. A constitutional test of law is not an act of war against society, a breach of the concordia on which society rests. It is, on the contrary, an appeal to law, and an act of faith in society, a reliance in every sense on the underlying concord and peace of the social order.

When I say that such tests of law are morally justified, I do not mean to imply that they are easy, or that society can meet their challenge without strain. Normally, the very idea of such challenges implies deep and disruptive processes of change in the habits and ideas of society.

The best illustration of the ways in which the process of constitutional testing works has been the cycle of cases dealing with the rights of Negroes during the last thirty years. There have been excesses among them, and mistakes, of course, but viewing the cycle as a whole, I conclude that they constitute one of the most remarkable achievements of law in our history, leading the nation to vindicate the Fourteenth Amendment, and to undertake changes in our most deeply established habits.

The Fourteenth Amendment has not in fact been enforced to protect the Negro for nearly two generations after the Hayes-Tilden election of 1876. The compromise which settled that election controversy tacitly postponed all efforts to enforce the Fourteenth Amendment in behalf of the Negro for an indefinite period.

The hiatus was defended or explained on various grounds: that the Fourteenth Amendment had not been legally ratified; that it was contrary to the Higher Law of the Bible, and to customs and mores of a region of the country; and that the majority of the nation should defer to the strongly held views of the Southern minority, and refrain from attempting to enforce the Amendment.

But society did not stand still while the understanding of 1877 prevailed. In ever increasing numbers, the poor Freedmen of 1865 became full participants in the work of society, although many Black men remained trapped in the ignorance and poverty of rural life at the subsistence level. More and more acquired higher education, and began to participate in the activities and responsibilities of the middle class. Negroes fought in two World Wars, in Korea and in Viet-Nam.

Meanwhile, our ideas of social justice changed, and changed fundamentally. The people of the United States endured the bitterness and suffering of a Great Depression. They emerged from that experience committed to a much more compassionate and Jeffersonian view of the individual than had ever been the case in our society before. At the same time, the problem of race had taken on completely new meaning, after the experience with Hitler, and in a world where nearly seventy new countries had emerged from the dissolution of Empire.

By the early Fifties, the compromises and evasions of 1877 had become obsolete—as obsolete and as offensive to our moral sense as the constitutional compromise over the status of fugitive slaves had become a hundred years earlier.

In that setting, the Supreme Court began to insist that the Fourteenth Amendment be enforced, case by case, as practice after practice, statute after statute, was challenged in litigation.

This process has involved Congress, the Presidency and the people as well as the Courts. In recent years, the nation has spoken over and over again with all its political force to reaffirm the principle of equality as the basis for our law. We know that the attitudes and customs built up over three hundred years do not yet fully correspond to the law of the Fourteenth Amendment. But in our majorities we are agreed, I think, as to the rightness of the constitutional doctrine, and the principles of freedom and dignity that inform it. And we are agreed too that it is the moral obligation of citizens and public officials to translate the law's command into daily practice. When the Attorney General of the United States stood in the school-house door, a few years ago, he was not asking the Governor of Alabama to yield to force, but to obey a law which he, like every other citizen, had pledged his sacred honor to uphold. This side of Utopia, some marginal force has always been needed to enforce the law. But in a society of consent force is not its final arbiter.

In the explosion of social protest which nearly every nation of the world seems to be experiencing at the moment, the idea of legality is often posed in a totally different form. In these manifestations, there are breaches of law not for the sake of testing its validity, but to serve other goals. The constitutional validity of discrimination is not put in issue by arson, nor the propriety of university practices by tearing up the papers of the University president. Often, the citizen breaks a concededly valid law as a protest. He may not agree with that particular law. Or he may be seeking through his arrest to dramatize his own opinion of another law, or to rally support for a view on quite another subject he has been unable to persuade a majority to accept. Sometimes, he breaks the law because he regards its policy as profoundly wrong, and believes he has a moral right or duty to break the law, even though he can properly be punished for doing so. This kind of argument is often raised by some who disagree with the policy of the United States in Vietnam. In still other cases, the law breaker breaks the law because he is at war with society, and seeks to destroy or conquer it.

In situations of this kind, society faces not an appeal to what is best, but the threat of what is worst in its spirit. Those who commit such acts rely on the legal philosophy of those who resisted the enforcement of the Fourteenth Amendment for so long, and resist it still.

The permissible limits of protest have been debated over the centuries.

Perhaps I can summarize that debate by presenting an imaginary dialogue between Socrates and Henry David Thoreau. I have had Socrates speak from the Crito, and Thoreau from his Essay on Civil Disobedience, and his speech in Defense of John Brown.

Thoreau's views on man's freedom in society assert a theory which has had a wide currency in recent years. Thoreau contended that it is the duty of the citizen, or at least of the citizen of superior virtue, to disobey valid laws—like tax laws—when his conscience tell him that important policies of the society are wrong.

Thoreau is the modern source of the phrase "civil disobedience." I shall examine that idea here not as it might be invoked in a

tyranny, where the laws are not based on the consent of the governed, nor as it might be relied upon in testing the validity of particular laws under our Constitution, but as a claim of general right for the citizen—or at least for some citizens—in a society of consent.

The Crito, you remember, presented Socrates on his last day. Crito had come at dawn, to offer Socrates a chance to escape, so that he could live safely in exile.

SOCRATES. In leaving the prison against the will of the Athenians, do I not wrong those whom I ought least to wrong? Do I not desert the principles that we are never intentionally to do wrong, and that injustice is always an evil and dishonor to him who acts unjustly?

THOREAU. But the mass of men serve the state, not as men mainly, but as machines, with their bodies. In most cases there is no free exercise whatever of the judgment or of the moral sense; but they put themselves on a level with wood and earth and stones. Such command no more respect than men of straw or a lump of dirt. They have the same sort of worth only as horses or dogs.

When power is in the hands of the people, a majority continues to rule not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest. Can there not be a government in which majorities do not virtually decide right and wrong, but conscience?

SOCRATES. Suppose I do play truant, and the laws and government come to interrogate me. "Tell us, Socrates," they say, "what are you about? Are you not going by an act of yours to overturn us—the laws, and the whole State, so far as in you lies? Do you imagine that a State can subsist and not be overthrown, in which the decisions of law have no power, but are set aside and trampled upon by individuals?"

THOREAU. In fact, I quietly declare war with the State, after my fashion, though I will still make what use and get what advantage of her I can.

The authority of government, even such as I am willing to submit to, is still an impure one: to be strictly just, it must have the sanction and consent of the governed. It can have no pure right over my person and property but what I concede it. I please myself with imagining a State at last which would not think it inconsistent with its own repose if a few were to live aloof from it, not meddling with it, nor embraced by it.

SOCRATES. "And was that our agreement with you?" the laws would answer, "or were you to abide by the sentence of the State? For, having brought you into the world, and nurtured and educated you, and given you and every other citizen a share in every good which we had to give, we further proclaim to any Athenian by the liberty which we allow him, that if he does not like us when he has become of age and has seen the ways of the city, and made our acquaintance, he may go where he pleases and take his goods with him. But he who has experience of the manner in which we order justice and administer the State, and still remains, has entered into an implied contract that he will do as we command him. And he who disobeys us is, as we maintain, wrong, because he has made an agreement with us that he will duly obey our commands; and he neither obeys them nor convinces us that our commands are unjust; and we do not rudely impose them, but give him the alternative of obeying or convincing us;—that is what we offer, and he does neither."

THOREAU. But there are nine hundred and ninety-nine patrons of virtue to one virtuous man. All voting is a sort of gaming, like checkers or backgammon, with a slight moral tinge to it, a playing with right and wrong. A wise man will not leave the right to the mercy of chance, nor wish it to prevail through the power of the majority. There is little virtue in the action of masses of men. Any man more right than his neighbors constitutes a majority of one already. Why is the government not more apt to anticipate and provide for reform? Why does it not cherish its wise minority?

It is not a man's duty as a matter of course to devote himself to the eradication of even the most enormous wrong; but it is his duty at least to wash his hands of it.

SOCRATES. But I of all men have acknowledged the agreement, made at leisure, not in haste or under any compulsion or deception. If I flee, the laws will say: "Consider, Socrates, that if you do escape you will be doing us an injury. You would be breaking the covenants and agreements which you have made with us, and wronging those whom you ought least of all to wrong, that is to say, yourself, your friends, your country, and us, the laws, whom you would be doing your best to destroy."

THOREAU. Any man knows when he is justified, and all the wits in the world cannot enlighten him on that point. The murderer always knows he is justly punished; but when a government takes the life of a man without the consent of his conscience, it is an audacious government, and is taking a step toward its own dissolution.

SOCRATES. Who would care about a state which has no laws?

The American community, permeated by Jefferson's ideals, can never stress enough the need to respect the autonomy of the iconoclast, nor do too much to protect freedom of thought from repression at the will of the majority. The line between freedom and order is always the most difficult problem for governments which believe in individual liberty. As Madison once said, "it is a melancholy reflection that liberty should be equally exposed to danger whether the government have too much or too little power, and that the line which divides these extremes should be so inaccurately defined by experience . . . The abuses of liberty beget a sudden transition to an undue degree of power."

Giving full and sympathetic weight to Thoreau's plea for the autonomy of the individual, no society of consent could live according to Thoreau's principle, and no other society would care enough about the rights of a non-conformist to consider it.

Thoreau himself could never quite decide whether he was within the society or outside it. He wanted both the protection and benefit of life in society, and the privilege of being at war with it. Contemptuous of democracy, he had better things to do, he said, than persuade his stupid fellow-citizens that slavery, the Mexican War and the tax in support of the church were wrong. He therefore claimed the right not to pay his taxes, and indeed to use force, like John Brown, to propagate his ideas.

But the obligations of democratic citizenship cannot be so easily evaded. Pilate's gesture, or John Brown's, do not discharge the burden. Even the most patient and tolerant of societies cannot ignore indefinitely wars against it waged by individuals or groups. What Croce called the religion of liberty is a demanding creed. When laws prevail which a citizen believes are unjust or immoral, he owes the community a duty to participate in the process of community decision, according to its rules of reasoned debate, and its reasoned procedures for reaching collective judgments.

At the same time, society must always be on guard to make sure that its methods for organizing the participation of citizens in the stern and sinewy debates of democracy are really effective. Life in the vast America of today can no longer be conducted by the simple methods of a town meeting. Many feel helpless and excluded by the formidable machinery of modern life. One of the great areas for reform in modern society is to adapt our procedures to facilitate meaningful participation by people in the decisions which affect their lives—not only in the realm of politics, but in other social institutions as well.

But what if the dissenting citizen fails to persuade his fellow-citizens that the laws to which he objects are indeed unjust and immoral? Is he then entitled to live by his own view? If so, by what authority?

Obviously, no democratic society, and no other society based on the idea of equality, can recognize such claims, even for an aristocracy of conscience. No matter how sincerely we honor learning and wisdom, and the diversity of learned views, we have not yet made philosophers Kings, nor are we likely to.

But, we have been told lately, the principle of the Nuremberg Trials requires the citizen to disobey the commands of the state when his own conscience, and his own conscience alone, compels him to do so.

Such a claim betrays little knowledge of the Nuremberg proceedings.

They were directed to situations in which individuals accused of violating the laws of war claimed as a defense that they were carrying out the orders of a superior officer.

In the first place, Nuremberg dealt with Germans under the orders of a state in which authority was utterly divorced from consent. Whatever obligation a German owed the Third Reich, it was hardly Plato's proud duty of citizenship in ancient Athens.

Secondly, with respect to the defense of superior orders, our own Code of Military Justice gives full protection to the individual soldier if his superior should order him to kill or torture prisoners, or otherwise violate the laws of war.

Finally, the Nuremberg Trials examined the novel charge of waging aggressive warfare, in violation of international law. This charge was confined to a few persons in positions of high responsibility in the German Government. It was not regarded as a charge universally available, nor yet as a universal solvent of individual responsibility.

This is not the occasion to analyze the legality of our policy in Viet-Nam, but so far as the Nuremberg idea is concerned, there is no basis for an American to claim that his disagreement with our Viet-Nam policy justifies his refusal to fulfill one of his most fundamental obligations as a citizen, that of military service. As Justice Cardozo once said:

"The conscientious objector, if his liberties were to be thus extended, might refuse to contribute taxes in furtherance of a war, whether for attack or for defense, or in furtherance of any other end condemned by his conscience as irreligious or immoral. The right of private judgment has never yet been so exalted above the powers and the compulsion of the agencies of government. One who is a martyr to a principle—which may turn out in the end to be a delusion or an error—does not prove by his martyrdom that he has kept within the law."

We come back, then, to Thoreau's assertion that when a citizen is convinced that a law is unjust, and he cannot persuade a majority to agree with him, he has the right—indeed the duty—to disobey the law, even if, as in John Brown's case, he has to use force to do so.

To acknowledge Thoreau's proposition would make concord within society impossible. In times of stress, Thoreau's quiet war could hardly remain a limited war, confined to a few eccentrics at the fringes of society. Different groups would join him in claiming the right to dissociate themselves from society. Presumably they would be as convinced of their superior virtue as he was of his own. Competition in violence and in intimidation would become more open, and more intense. The taboos with which democracy has sought to control and redirect our aggressive impulses would weaken. Despite our profound and nearly universal instinct to avoid such a course, we could all too easily find ourselves far

beyond the accepted democratic limits of social conflict. As a people, we know the horror and cruelty of war among brothers, and we recoil from the idea.

Those among us who have recently pursued experiments in disorder have discovered how easy it is to paralyze a society based on consent. Such societies are not police states. They are organized on the assumption that citizens normally obey the law. It has been an intoxicating discovery for young militants to realize that, for a moment, they can paralyze cities and institutions, and provoke situations of riot and siege. But they discover too that even the most tolerant and permissive societies do not submit to their own destruction. Every government and every society has an inherent impulse to restore order, and to assure its own survival.

American society does not accept the premise that it is rotten to the core, and has become incapable of solving its social problems through the benign processes of reason, political action and democratic reform. In view of the progress on many fronts we have made in recent years, such an assertion is patently unjustified.

A prolongation of the tactics of riot, however, can have only tragic consequences, if fear comes to dominate the political atmosphere, and policy turns to a reliance on repression rather than on social progress as the primary method of order.

Jefferson spoke to this issue—a threat to society in his time as it is in ours—in these words:

"The first principle of republicanism is that the *lex majoris partis* is the fundamental law of every society of equal rights; to consider the will of the society enounced by the majority of a single vote, as sacred as if unanimous, is the first of all lessons in importance, yet the last which is thoroughly learnt. This law once disregarded, no other remains, but that of force, which ends necessarily in military despotism."

"JUST WARS" AND CHRISTIAN CONSCIENCE: A JOINT LUTHERAN STATEMENT

Mr. HARTKE: Mr. President, I have received a carefully prepared statement adopted by the Task Force on Peace of the joint Lutheran Social Services, supported by three Lutheran bodies. It deserves consideration, not just by Lutherans but by all who are concerned with the moral questions thrown at us by the war in Vietnam.

We know that certain religious denominations have an historic position as "peace" churches, whose members may under the law state their religious scruples against military service and so receive the kind of treatment given to the religious conscientious objector. But in the case of our Vietnam venture, opposition is not confined to the traditional pacifist church groups. Presbyteries, conferences, synods, general conventions—all types of official religious bodies have stated their opposition to this particular war when in the past they have been found in support of American war efforts.

This great flood of sentiment and expression against the war in Vietnam comes about in part because of the appraisal made by leaders in those bodies which have held to the historic "just war" principle. To be blunt, many Catholic, Lutheran, and other groups have applied to Vietnam the standards historically used in measuring the justice of wars, only to conclude that this is in fact and unjust war and therefore must be opposed. Yet, since the law allows for exceptions only among members of the "peace" churches, the person who concludes that this is, in the light of the religious teachings of his faith, an unjust war—that person is not allowed to be classed as a conscientious religious objector.

I happen to be a Lutheran, and the Lutheran churches have over the centuries followed Martin Luther's thinking on the question of just and unjust wars. The Task Force on Peace and War of the Lutheran Social Services here in the Washington area has issued a thoughtful analysis of the war issue as seen in the context of our religious heritage. Their statement, entitled "Selective Objection: A Lutheran Approach to the Problem of War," traces the historic position of the scripture and the early Christian church, and considers the views of Martin Luther. They conclude that it is incumbent upon all churches which hold to the "just war" concept to demand recognition of the "selective conscientious objector"—the one who is not opposed to all wars unconditionally, but who finds this a morally insupportable war in which he must, out of religious conscience, withdraw his support.

Mr. President, I ask unanimous consent that this paper may appear in the CONGRESSIONAL RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SELECTIVE OBJECTION: A LUTHERAN APPROACH TO THE PROBLEM OF WAR

(Statement of the Task Force on Peace and War of the Lutheran Social Services of Washington, D.C., June 1968)

From the time of Christ's ministry there has been a tension between the claims placed on the individual by the State and the claims of Christianity. This tension is succinctly represented by the Pharisees' questioning of Jesus as recorded by Mark:

"And they sent to him some of the Pharisees and some of Herodians to entrap him in his talk. And they came and said to him, "Teacher, we know that you are true, and care for no man; for you do not regard the position of men, but truly teach the way of God. Is it lawful to pay taxes to Caesar or not? Should we pay them, or should we not?' But knowing their hypocrisy, he said to them, 'Why put me to the test? Bring me a coin, and let me look at it.' And they brought one. And he said to them, 'Whose likeness and inscription is this?' Jesus said to them, 'Render to Caesar the things that are Caesar's, and to the God the things that are God's.' And they were amazed at him." (Mark 13–17)

This episode reveals Christ's complex attitude toward matters in which the claims of the state and the claims of conscience are involved. The essence of Jesus' attitude is a position that recognizes the legitimate claims of the state but sets definite limits on it.

It rejects the totalitarian state which limits the response of religious faith and conscience. The claim of faith and conscience must be given authority and priority. This is explicitly stated in Acts 5:27–29, when Peter and the apostles responded to charges brought against them by saying, "We must obey God rather than men."

This declaration followed an encounter between Peter and John and the "rulers and elders." The Apostles had asserted that a right of conscience was the right to make itself heard:

"So they called them and charged them not to speak or teach at all in the name of Jesus. But Peter and John answered them, 'Whether it is right in the sight of God to listen to you rather than to God, you must judge; for we cannot but speak of what we have seen and heard.' " (Acts 4:18–20)

The peril a Christian runs in disregarding conscience was vividly expressed in the Epistle to the Hebrews (10:26–27):

"For if we sin deliberately after receiving the knowledge of the truth there no longer remains a sacrifice for sin, but a fearful prospect of judgment and a fury of fire which will consume the adversants."

Yet, in asserting his right to act upon a dissenting conscience against the commands of the state and the apparent conscience of the society in which he lives, the Christian must also ponder the words of St. Paul in his Epistle to the Romans (9: 1–3):

"I am speaking the truth in Christ, I am not lying; my conscience bears me witness in the Holy Spirit, that I have great sorrow and increasing anguish in my heart. For I could wish that I myself were accursed and cut off from Christ for the sake of my brethren, my kinsmen by race."

With this caution in mind we have examined the area of the State's and society's most distressing claim upon the individual Christian throughout the post-Constantine centuries: that he disregard the plain injunctions of our Lord in the Sermon on the Mount, and throughout His ministry, and bear arms on behalf of that tribe or nation-state which has a claim to his secular allegiance.

Roland Bainton, in his book *Christian Attitudes Toward War and Peace*, identified the historic Christian responses to war: pacifism, the crusade and the just war.

The first two of these approaches to war, however, have usually been advocated by only a small number of Christians since the farcical disaster of the Medieval Crusades. The mainstream of the Christian tradition has been based on the theological concept of the just war.

The idea of the just war is one that Lutherans have subscribed to theoretically since Article XVI of the Augsburg Confession was penned in 1530. It states in part:

"It is taught among us that all government . . . is instituted and ordained by God for the sake of good order, and that Christians may without sin occupy civil offices . . . engage in just wars, serve as soldiers . . . etc. . . . Accordingly Christians are obliged to be subject to civil authority and obey its commands and laws in all that can be done without sin. But when commands of the civil authority cannot be obeyed without sin, we may obey God rather than men." (Acts 5:29)

This, let it be noted, was not put forward as a uniquely "Lutheran" position, but as an Evangelical formulation of a common doctrine of Catholic Christendom, agreed to by all but invoked by few.

Martin Luther's position was outlined in his own writings when he tried to define "just wars." While he accepted as heartily as did St. Paul the claims of the state, Luther saw a qualitative difference between the waging of war, and the demand that Christian men support their rulers in other, less violent assertions of secular authority.

In his discourse on *Temporal Authority: To What Extent It Should Be Obeyed* (1523), addressed to a Duke of Saxony, Luther recalled St. Peter's answers in the Book of Acts. He cautioned his prince against following "the advice of those counselors and fire-eaters who would stir and incite him to start a war." Wars should be avoided if at all possible, Luther said, and a ruler "must not consider your personal interests and how you may remain lord, but those of your subjects to whom you owe help and protection." Even a just war undertaken in defense should be pursued prudently. "If you cannot prevent

some from becoming widows and orphans as a consequence, you must at least see that not everything goes to ruin until there is nothing left except widows and orphans." While a just war may be pursued vigorously, "one must beware of sin and not violate wives and virgins."

Then Luther asked: "What if a prince is in the wrong? Are his people bound to follow him then too? Answer: No, for it is no one's duty to do wrong; we must obey God (who desires the right) rather than men (Acts 5:29). What if the subjects do not know whether their prince is in the right or not? Answer: So long as they do not know, and cannot with all possible diligence find out, they may obey him without peril to their souls."

Three years later, in 1526, in another pamphlet, Luther answered "Yes" to the question *Whether Soldiers Too, Can Be Saved*. He returned to the issues posed in the earlier dissertations. This time he suggested that a Christian uncertain about the justice of his state's war "ought not to weaken certain obedience for the sake of uncertain justice." But he underlined his support for the man who firmly believes his "lord" to be "wrong in going to war . . . If you know for sure that he is wrong then you should fear God rather than men . . . for you cannot have a good conscience before God . . . If they put you to shame or call you disloyal, it is better for God to call you loyal and honorable than for the world to call you loyal and honorable."

In this pamphlet Luther outlined criteria whereby a Christian must judge just or unjust any war in which his state is engaged or is proposing to engage.

"At the very outset," he wrote, "I want to say that whoever starts a war is in the wrong . . . worldly government has not been instituted by God to break the peace and start war, but to maintain peace and to avoid war . . ."

"Beware, therefore; God does not lie! Take my advice. Make the broadest possible distinction between what you want to do and what you ought to do, between desire and necessity, between lust for war and willingness to fight . . . wait until the situation compels you to fight when you have no desire to do so . . ."

"No war is just even if it is a war between equals, unless one has such a good reason for fighting and such a conscience that he can say, 'My neighbor forces me to fight though I would rather avoid it.' . . . Stay out of war unless you have to defend and protect yourselves and your office compels you to fight. Then let war come. Be men, and test your armor. . . ."

"Even though you are absolutely certain that you are not starting a war but are being forced into one, you should still fear God and remember him. You should not march out to war saying 'Ah, now I have been forced to fight and have good cause for going to war.' You ought not to think that that justifies anything you do and plunge headlong into battle. . . ."

"Our conclusion on this point, then, is that war against equals should be waged only when it is forced upon us and then it should be fought in the fear of God. Such a war is forced upon us when an enemy or neighbor attacks and starts the war, and refuses to cooperate in settling the matter according to law or through arbitration and common agreement, or where one overlooks and puts up with the enemy's evil works and tricks, but he still insists on having his own way. I am assuming throughout that I am preaching to those who want to do what is right in God's sight. Those who will neither offer nor consent to do what is right do not concern me."

Luther warned against engaging in wars in which a state is unable or unwilling to commit the resources necessary to victory, and of harming the enemy more grievously than is essential to bringing him to a settlement. In *On Temporal Authority* he insisted: "And when victory has been achieved, one should offer mercy and peace to those who surrender and humble themselves."

Only when the threat of Turkish-Moslem aggression against the Holy Roman Empire was manifest was Luther persuaded to write a pamphlet supporting war. He maintained even then that it was essential that war be constitutionally decreed if Christians were to be asked to participate in it, and chided the authorities and scholars of his day for their lack of knowledge of the enemy and of the religion and the secular ideology which motivated him.

We have summarized Luther's restatement of St. Augustine's concept of just and unjust wars extensively not because we consider every point in it sufficient to or applicable to the present in the precise terms of his formulation. We do, none the less, believe that his is a compelling presentation of most of the issues which all Christians are obliged to confront today. (The only other major concern which we cannot leave unmentioned in 1968 is whether or not a just war is possible between major powers in an age of nuclear weapons technology.)

Luther asserted five things:

(1) The individual Christian must himself "with all possible diligence" endeavor to "find out" whether or not a war in which he is asked to serve is a "just war" in which "commands of the civil authority may be obeyed without sin" as the Augsburg Confession puts it.

(2) Apostolic tradition and the words of Christ himself enjoin the Christian to obey God rather than man, if God through an individual's conscience tells him that a war to which the civil authority summons him is an unjust war.

(3) A war in defense of a nation's people and its identity may be a just war, but the burden of proof is upon the secular authority to demonstrate that any other war is one in which a Christian may either lead or serve.

(4) There is clearly a right to what has been called "selective conscientious objection" and, if we take Luther's Christianity seriously, an obligation upon the Christian convinced of the injustice of a war to refuse to participate in it.

(5) Luther reasserted the Church's right to make judgments based on the teachings of Jesus Christ and to assert them against the claims of temporal governors to unqualified obedience. It follows that the churches of Christ, and most particularly churches calling themselves Lutheran, are obliged to respect, minister to, and support before the civil authorities those Christians who refuse to serve in what to them is an unjust war, as they are to respect and minister to men who in good conscience accept military service in a war they believe to be just. *It is, therefore, urgently incumbent upon national Lutheran bodies, and all Christian churches which adhere to the "just war" concept, to demand of the temporal authorities the same recognition of the rights of the "selective conscientious objector" that they accord to adherents of the Christian pacifist tradition.* (No one with any appreciation of the quietism which has characterized Lutheran life since the 17th Century will make the mistake of thinking the lot of a Lutheran boy asserting this right will be any less arduous than that indicated by St. Paul in Romans 9.)

We do not assume that all Christians, or all Lutherans, will agree on the application of Luther's or any set of just war criteria to every war or threat of war which confront them today or in the future. We who submit this paper are not in agreement with each other on all international issues which involve war or its possibility.

We do assume, however, that our Church and other Christian Churches are as conscious as we that the word is God, that Christ teachings incarnate values which must be upheld against those claims of temporal, power-rationalizing authorities which clearly run counter to our beliefs. This is what Jesus taught, and what the Apostles maintained with their lives. Martin Luther reasserted it against a tradition, or rather a long abdication of tradition, in his day. Like him we hark back to the plain meaning of the basic, immutable claims of the Gospel of Jesus, the Church's mission to proclaim that Gospel and its obligation to feed those who try to live by it. Like him we call upon the Church to be the Church militant, to stop subordinating itself to the state—exalting the heresies of accommodationist Churches. We believe that when the Church does so its right to speak to men and states will be joyfully acknowledged by millions who have ridiculed its credibility, or disputed the propriety of its speaking to the world.

APRIL 6—DAY OF DISASTER, RICHMOND, IND.

Mr. HARTKE. Mr. President, in the early afternoon of April 6, 1968, a massive explosion leveled more than an entire city block of downtown Richmond, Ind. To date, 41 persons are dead, many horribly burned beyond recognition; the injury list is well over 100. An airplane pilot flying 1,000 feet over the blast site reported that his plane was struck by debris. One person calmly walking the downtown streets of Richmond was blown onto the roof of a nearby building by the gigantic force of the explosion.

Although Richmond is only now slowly recovering from its disaster, the exposion has received scant attention in Congress or in other parts of the country. But today I ask the Senate to think about the implications of what happened in Richmond on April 6, because available evidence points to gas as the initial cause of the explosion, not gunpowder, as was first reported.

On April 3, 3 days before the blast, Heath Survey Consultants of Wellesley Hills, Mass., found 55 leaks in the gaslines of the Richmond Gas Co. Gas odors or leaks in and around the Marting Arms Store in Richmond, where the explosion originated, were reported to the gas company weeks before the blast. Across the street from the Marting Arms, the gas company had even replaced a gas meter as a result of complaints about the smell of gas.

The initial blast produced an eruption of the sidewalk in front of the Marting Arms, just where the gas service line entered the building. This service line was removed by the gas company after the explosion. Part of it is reported to have been corroded and perforated. The company sent the pipe section to the University of Illinois for tests; but almost 3 months after the explosion, company officials have refused to submit the pipe or results of the tests to city or State officials investigating the cause of the disaster.

The gas mains that run along the main street of Richmond, where the blast took place, were installed around the turn of the century, although neither the gas company nor the city of Richmond is sure just exactly how old the pipes are.

In December 1959 two failures of an iron gas main occurred in the downtown area because of corrosion. A third failure due to corrosion was found after the April 6 blast. In short, the age of the pipes, the record of past failures, and the existence of 55 leaks only 3 days prior to the explosion cast serious doubts on the safety of the city's gas pipeline. One has to ask, How many other cities and towns in our country are in similar circumstances with respect to leaks, rust, and old pipes?

These doubts have been reinforced by discoveries of additional gas leaks in the first few weeks following the blast. Joseph Kuchta, an expert from the U.S. Bureau of Mines, reported to the city that he found "sufficient evidence to indicate that the gas leakage problem was serious and a potential hazard of another gas explosion would exist until the leaks were eliminated." The Richmond Graphic, on June 20, asked a question that has been troubling thousands of Richmond citizens, who even today are afraid to go downtown for fear of another explosion. The Graphic asks:

> What in the world is going on underneath our city streets? Every time a motorist turns a corner, he comes on another pipeline crew digging a hole. City Attorney, Andrew Cecere says bluntly that the City's gas system is not under proper control.

A board of inquiry, after studying the April 6 blast, has reported that two explosions were involved, and that the second one was produced by gunpowder stored in the basement of the Marting Arms Store. But the board was unable to state unequivocally the cause of the first explosion, although its report strongly hints at gas. A major reason for the board's failure to pinpoint the cause of the first blast was the lack of cooperation from gas company officials who did not make available pipe sections which were sent to the University of Illinois for inspection and test.

People in Richmond are very disturbed by the absence of definitive answers to the questions of what caused 41 lives to be violently killed on April 6, and why there are continuing leaks in their gas pipelines. But unfortunately no regulatory structure now exists to provide the answers efficiently. The Federal Power Commission has no jurisdiction to investigate such accidents or determine their causes.

A strong Federal regulatory system for gas pipelines might well have saved the lives of those 41 people who were incinerated in Richmond on April 6. Perhaps more important, a strong Federal regulatory system could guarantee the safety of pipes that will lie under the new streets and buildings of a reconstructed downtown Richmond. Surely the people of Richmond are entitled to the assurance that their city will never have to tolerate or experience another explosion as this past April. A strong Federal pipeline safety law will go a long way toward providing that assurance, a law with adequate authority, adequate funds and meaningful sanctions for violations.

Unfortunately, we can never restore the lives of those 41 innocent victims of the Richmond disaster, nor can we restore the arms and legs which were so violently shattered. But we can and must use every conceivable means available to Congress to avert another Richmond disaster.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

VOCATIONAL EDUCATION AMENDMENTS OF 1968

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business, H.R. 18366.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 18366) to amend the Vocational Education Act of 1963, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate resumed the consideration of the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAYH in the chair). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of the fact that we are operating on limited time, I ask unanimous consent that the time used on the call of the roll be taken out of the time on the bill, because we are up against a 4 o'clock deadline.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is the pending amendment the amendment of the Senator from Colorado?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And on that amendment, a half hour is controlled by the Senator from Colorado and a half hour by the Senator from Oregon?

The PRESIDING OFFICER. The Senator is correct. The discussion will be on amendment No. 886.

The Senator from Colorado is recognized.

Mr DOMINICK. Mr. President, I send to the desk a modification of the pending amendment, No. 886.

The PRESIDING OFFICER. The clerk will read the amendment as modified.

The assistant legislative clerk proceeded to read the amendment as modified.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment and modifications will be printed in the RECORD.

The amendment and modifications are as follows:

AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 RELATING TO PRESCHOOL ASSISTANT PROGRAMS

SEC. 208. (a) The Elementary and Secondary Education Act of 1965 is amended by redesignating title VIII as title IX, by redesignating sections 801 through 807 and references thereto as section 901 through 907, respectively, and by adding after title VII the following new title:

"TITLE VIII—PRESCHOOL PROGRAMS FOR CHILDREN OF LOW-INCOME FAMILIES

"ALLOTMENT TO STATES

"SEC. 801. From the sums appropriated to make basic grants under this title for any fiscal year, the Commissioner shall allot not more than 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. He shall also reserve not more than 10 per centum of those sums for allotment in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, (2) the average number of unemployed persons in each State as compared to all States, and (3) the relative number of related children living with families with incomes of less than $1,000 in each State as compared to all States. For purposes of the preceding sentence, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. That part of any State allotment which the Commissioner determines will not be needed may be reallotted, on such dates during the fiscal year as the Commissioner may fix, to other States, in proportion to their original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

"STATE PLANS

"SEC. 802. (a) Any State which desires to receive grants under this title shall submit to the Commissioner, through its State educational agency, a State plan, in such detail as the Commissioner deems necessary, which—

"(1) provides that the State educational agency will be the sole State agency for the administration of the State plan;

"(2) sets forth a program under which funds paid to the State from its allotment under section 801 will be used solely to make grants to community action boards (established pursuant to the Economic Opportunity Act of 1964), or in any community where there is no qualified community action board, to local educational agencies to assist them in carrying on preschool programs which, under subsection (b), are eligible for assistance under this title;

"(3) provides that effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational

research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any funds paid by the State to any other agency) under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(6) provides a balanced program to meet the educational, nutritional, health, clothing, and other unique needs of children from impoverished backgrounds in order for them to function at optimum levels in relationship to other children; and

"(7) provides a standard of poverty for individuals and families in the State that takes into account the number of children, dependents, and other special circumstances substantially affecting the ability of individuals and families to be self-sustaining.

"(b) A preschool program shall be eligible for assistance under this title if (1) it is designed to prepare educationally deprived children, aged three through seven, in areas having high concentrations of children from low-income families to successfully undertake the regular elementary school program, (2) it is carried on by, or under contracts or arrangements with, a community action board, or, if carried on in an area in which there is no community action board, is carried on by a local educational agency, and (3) it is limited to participation by children from families meeting the poverty standards established under section 802(a)(7).

"(c) The Commissioner shall approve any State plan and any modification thereof which meets the requirements of subsection (a).

"PAYMENTS TO STATES

"SEC. 803. (a) From the amounts allotted to each State under section 801, the Commissioner shall pay to each State an amount equal to the Federal share of the expenditures made such State, in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

"(b) For purposes of subsection (a), the Federal share for each State shall be 90 per centum for the fiscal year ending June 30, 1970.

"ADMINISTRATION OF STATE PLANS

"SEC. 804. (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency administering the plan reasonable notice and opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such agency, finds—

"(1) that the State plan has been so changed that it no longer complies with the provisions of section 802(a), or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

"(c) In the event a State shall, within a reasonable time fail to submit a State plan, or shall fail to submit an acceptable State plan under circumstances that the Commissioner believes indicate a desire on the part of State officials to prevent operation of any acceptable program under this title within the State, the Commissioner is authorized to contract directly with qualified community action boards, or in any community where there is no qualified community action boards, directly with educational agencies to implement programs under this title within such State.

"JUDICIAL REVIEW

"SEC. 805. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 802(a) or with his final action under section 804(b), such State may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner, if supported by substantial evidence shall be conclusive; but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. (a) The Commissioner shall carry out the programs provided for in this title during the fiscal year ending June 30, 1970. There is authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1970, to make grants to States for preschool programs under this title."

(b)(1) Section 222(a) of the Economic Opportunity Act of 1964 is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), (5), (6), and (7), as redesignated by section 203(b) of this Act, and references thereto, as paragraphs (1) through (6), respectively.

(2) The amendments made by subsection (b) shall apply with respect to fiscal years ending after June 30, 1969, which provide asistance for a Headstart program. After June 30, 1969, the Director of the Office of Economic Opportunity may not enter into any contract or make any grant to carry out a program similar to any program carried out under title VIII of the Elementary and Secondary Education Act of 1965.

(c)(1) Section 901 (as redesignated by subsection (a) of this section) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and VII" in the matter preceding clause (a) and inserting in lieu thereof "VII and VIII".

(2) Such section 901 is further amended by striking out "and VII" in clause (j) thereof and inserting in lieu thereof "VII and VIII".

On page 2, line 5, strike out "Commissioner" and insert in lieu thereof "Secretary."

On page 2, line 23, strike out "Commissioner" and insert in lieu thereof "Secretary."

On page 2, line 25, strike out "Commissioner" and insert in lieu thereof "Secretary."

On page 3, line 7, strike out "Commissioner" and insert in lieu thereof "Secretary."

On page 3, line 9, strike out "Commissioner" and insert in lieu thereof "Secretary."

On page 3, beginning with line 13, strike out through line 21 and insert in lieu thereof the following:

"'(2) sets forth a program under which funds paid to the State from its allotment under section 801 will be used to make grants to community action agencies (established pursuant to the Economic Opportunity Act of 1964), and public agencies or private nonprofit agencies or organizations, including local educational agencies, to assist them in carrying on pre-school programs, which, under subsection (b), are eligible for assistance under this title;".

On page 4, line 7, insert a comma and "if any," after the word "State".

On page 4, line 9 and 10, strike out "Commissioner" and insert "Secretary".

On page 4, line 16, strike out "and".

On page 4, line 21, strike out the period and insert a semicolon and the word "and".

On page 4, between lines 21 and 22, insert the following new clause:

"'(8) sets forth policies and procedures which give satisfactory assurance that Federal funds made avalable under this title for any fiscal year will not be commingled with State funds."

On page 4, line 24, strike out ", aged three through seven,".

On page 4, line 25, strike out "concentrations" and insert "proportion".

On page 5, line 3, beginning with "a community action board" strike out down through "agency" in line 5 and insert in lieu thereof the following: "a community action agency or a public agency or private nonprofit agency or organization, including a local educational agency".

On page 5, line 8, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 5, line 13, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 5, line 18, after the period insert the following new sentence: "Non-Federal contributions may be made by the State or, at the discretion of the State, by the community action agency, and public agency or private nonprofit agency or organization, and may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services."

On page 5, line 23, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 6, line 4, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 6, line 12, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 6, lines 18 and 19, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 6, line 21, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 6, strike out lines 23 and 24 and insert in lieu thereof "agencies, and public agencies or private nonprofit agencies or organizations, including local educational agencies,".

On page 7, line 3, strike out "Commissioner's" and insert in lieu thereof "Secretary's".

On page 7, line 10, strike out "Commissioner" both times it appears in such line and insert "Secretary".

On page 7, line 14, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 7, line 17, strike out "Commissioner" both times it appears in such line and insert "Secretary".

On page 7, line 24, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 8, line 5, strike out "Commissioner" and insert in lieu thereof "Secretary".

On page 8, line 14, strike out "203 (b)" and insert "208 (a)".

Mr. DOMINICK. Mr. President, I should say, for the benefit of the Senators on the floor, the modification of this amendment has been offered in order to avoid objections some people and groups had to the amendment in the form it was presented last year, and as it was presented by myself and the Senator from California on Monday of this week.

I believe that the modified amendment now before the Senate takes care of most of the objections, except for the very fundamental one which I know will be expressed by the Senator from Pennsylvania, which is that he simply does not want Headstart to be transferred.

The PRESIDING OFFICER. Did the Senator from Colorado request that the amendments be considered en bloc?

Mr. DOMINICK. Mr. President, I shall get to that in just a moment.

At this point I ask to modify the amendment so that all references to the striking of the word "Commissioner" and inserting "Secretary" may be eliminated from the amendment.

The PRESIDING OFFICER. The Senator has the right, under the rules, to modify his amendment in any way he sees fit.

The amendment is so modified.

Mr. DOMINICK. I thank the Chair.

The modifications are as follows:

On page 3, beginning wih line 13, strike out through line 21 and insert in lieu thereof the following:

"'(2) sets forth a program under which funds paid to the State from its allotment under section 801 will be used to make grants to community action agencies (established pursuant to the Economic Opportunity Act of 1964), and public agencies or private nonprofit agencies or organizations, including local educational agencies to assist them in carrying on preschool programs, which, under subsection (b), are eligible for assistance under this title;".

On page 4, line 7, insert a comma and "if any," after the word "State".

On page 4, line 16, strike out "and".

On page 4, line 21, strike out the period and insert a semicolon and the word "and".

On page 4, between lines 21 and 22, insert the following new clause:

"'(8) sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds."

On page 4, line 24, strike out ", aged three through seven,".

On page 4, line 25, strike out "concentrations" and insert "proportions".

On page 5, line 3, beginning with "a community action board" strike out down through "agency" in line 5 and insert in lieu thereof the following: "a community action agency or a public agency or private nonprofit agency or organization, including a local educational agency".

On page 5, line 18, after the period insert the following new sentence: "Non-Federal contributions may be made by the State or, at the discretion of the State, by the community action agency, and public agency or private nonprofit agency or organization, and may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services."

On page 6, strike out lines 23 and 24 and insert in lieu thereof "agencies, and public agencies or private nonprofit agencies or organizations, including local educational agencies,".

On page 8, line 14, strike out "203(b)" and insert "208(a)".

AMENDMENT TO ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 RELATING TO PRESCHOOL ASSISTANCE PROGRAMS

SEC. 208. (a) The Elementary and Secondary Education Act of 1965 is amended by redesignating title VIII as title IX, by redesignating sections 801 through 807 and references thereto as sections 901 through 907, respectively, and by adding after title VII the following new title:

"TITLE VIII — PRESCHOOL PROGRAMS FOR CHILDREN OF LOW-INCOME FAMILIES

"ALLOTMENT TO STATES

"SEC. 801. From the sums appropriated to make basic grants under this title for any fiscal year, the Commissioner shall allot not more than 2 per centum among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. He shall also reserve not more than 10 per centum of those sums for allotment in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, (2) the average number of unemployed persons in each State as compared to all States, and (3) the relative number of related children living with families with incomes of less than $1,000 in each State as compared to all States. For purposes of the preceding sentence, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. That part of any State allotment which the Commissioner determines will not be needed may be reallotted, on such dates during the fiscal year as the Commissioner may fix, to other States, in proportion to their original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

"STATES PLANS

"SEC. 802. (a) Any State which desires to receive grants under this title shall submit to the Commissioner, through its State educational agency, a State plan, in such detail as the Commissioner deems necessary, which—

"(1) provides that the State educational agency will be the sole State agency for the administration of the State plan;

"(2) sets forth a program under which funds paid to the State from its allotment under section 801 will be used solely to make grants to community action boards (established pursuant to the Economic Opportunity Act of 1964), or in any community where there is no qualified community action board, to local educational agencies to assist them in carrying on preschool programs which, under subsection (b), are eligible for assistance under this title;

"(3) provides that effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including any funds paid by the State to any other agency) under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may find necessary to assure the correctness and verification of such reports;

"(6) provides a balanced program to meet the educational, nutritional, health, clothing, and other unique needs of children from impoverished backgrounds in order for them to function at optimum levels in relationship to other children; and

"(7) provides a standard of poverty for individuals and families in the State that takes into account the number of children, dependents, and other special circumstances substantially affecting the ability of individuals and families to be self-sustaining.

"(b) A preschool program shall be eligible for assistance under this title if (1) it is designed to prepare educationally deprived children, aged three through seven, in areas having high concentrations of children from low-income families to successfully undertake the regular elementary school program, (2) it is carried on by, or under contracts or arrangements with, a community action board, or, if carried on in an area in which there is no community action board, is carried on by a local educational agency, and (3) it is limited to participation by children from families meeting the poverty standards established under section 802(a)(7).

"(c) The Commissioner shall approve any State plan and any modification thereof which meets the requirements of subsection (a).

"PAYMENTS TO STATES

"SEC. 803. (a) From the amounts allotted to each State under section 801, the Commissioner shall pay to each State an amount equal to the Federal share of the expenditures made such State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

"(b) For purposes of subsection (a), the Federal share for each State shall be 90 per centum for the fiscal year ending June 30, 1970.

"ADMINISTRATION OF STATE PLANS

"SEC. 804 (a) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency administering the plan reasonable notice and opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such agency, finds—

"(1) that the State plan has been so changed that it no longer complies with the provisions of section 802(a), or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that the State will not be regarded as eligible to participate in the program under this title until he is satisfied that there is no longer any such failure to comply.

"(c) In the event a State shall, within a reasonable time fail to submit a State plan, or shall fail to submit an acceptable State plan under circumstances that the Commissioner believes indicate a desire on the part of State officials to prevent operation of any acceptable program under this title within the State, the Commissioner is authorized to contract directly with qualified community action boards, or in any community where there is no qualified community action boards, directly with educational agencies to implement programs under this title within such State.

"JUDICIAL REVIEW

"SEC. 805. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under section 802(a) or with his final action under section 804(b), such State may within sixty days after notice of such action,

file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner, if supported by substantial evidence shall be conclusive; but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. (a) The Commissioner shall carry out the programs provided for in this title during the fiscal year ending June 30, 1970. There is authorized to be appropriated $375,000,000 for the fiscal year ending June 30, 1970, to make grants to States for preschool programs under this title."

(b)(1) Section 222(a) of the Economic Opportunity Act of 1964 is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), (5), (6), and (7), as redesignated by section 203(b) of this Act, and references thereto, as paragraphs (1) through (6), respectively.

(2) The amendments made by subsection (b) shall apply with respect to fiscal years ending after June 30, 1969, which provide assistance for a Headstart program. After June 30, 1969, the Director of the Office of Economic Opportunity may not enter into any contract or make any grant to carry out a program similar to any program carried out under title VIII of the Elementary and Secondary Education Act of 1965.

(c)(1) Section 901 (as redesignated by subsection (a) of this section) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and VII" in the matter preceding clause (a) and inserting in lieu thereof "VII and VIII".

(2) Such section 901 is further amended by striking out "and VII" in clause (j) thereof and inserting in lieu thereof "VII and VIII".

Mr. DOMINICK. On the desk of each Senator is an explanation of the modifications I have made to the printed amendment, and the overall effect on the Headstart program.

The purpose of the amendment, and I say this for the benefit of Senators who are present, including the Senator from Pennsylvania——

Mr. CLARK. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. CLARK. I have no such copy on my desk, nor do I see one on the desk of the Senator from Idaho [Mr. CHURCH], who sits next to me.

Mr. DOMINICK. The pages are in the process of handing out the explanation.

The purpose of the amendment is to strengthen Headstart by transferring the responsibility for its top level of administration from the Office of Economic Opportunity to the Office of Education in the Department of Health, Education, and Welfare.

Ever since its origination, I have strongly supported the Headstart program. I wish to applaud the success it has achieved during its duration. It is a good program. I think it can be better. I think it can be strengthened, and I believe this amendment will strengthen it.

The amendment will improve the Headstart program and insure its long-range success by first, greater coordination with the school system; second, specifically earmarking funds for its use; third, writing Headstart into law by statute; and, fourth, providing safeguards and requiring a balance program to assure participation of parents and community as well as the availability of comprehensive benefits for these children.

While Headstart has made some significant accomplishments, it has been most successful when operated within the structure of the public school system. I think this speaks for itself.

In 1966 we transferred the work study program and adult education program from OEO to the Office of Education. The Higher Education Act Amendments of 1968 passed by the Senate on Monday make the same transfer for Upward Bound. At the 1966 hearings almost all of the witnesses that came before the Education Subcommittee agreed that it was a good idea to transfer Headstart as well. However, from an administration point of view, they felt and so stated that perhaps we should wait a year. In 1967, the distinguished Senator from Pennsylvania [Mr. CLARK] stated on the floor of the Senate:

> It may well be, in due course, that Headstart could be transferred to the Office of Education, but I say again, as I said last year, the time has not yet come.

Mr. President, I submit that the time has come and the time is now.

It has been 2 calendar years since we were first told the transfer should be made but that it was not quite the right time. Now, it seems to me, 24 months later, it is self-evident that we should carry this matter forward.

Program administration has not been one of the shining attributes of the Office of Economic Opportunity and in fact, its record is replete with administrative difficulties. It is clear that HEW has the jurisdiction and the expertise in the area of education which make it capable of handling the transfer, and continuing an on-going program.

At present, there is a preschool program similar to that of Headstart under title I of the Elementary and Secondary Education Act. These two preschool programs operating independently cause wasteful duplication. My amendment would eliminate this needless duplicity and bring about the requisite link between the elementary school and the Headstart program.

It is my understanding that the effectiveness of Headstart is diminished or hampered because once the children complete the program and gain its benefits the lack of coordination places the elementary school in a position of being unable to reinforce those gains accomplished by Headstart. My amendment, if adopted, would enable the Headstart program to be administered and coordinated so as to carry over the gains made by Headstart into the child's total educational experience. This I see as the objective of Headstart.

This amendment would eliminate the necessity for and the added expense created by the present follow-through programs we have had to set up in an attempt to solve the problems created by the lack of coordination and cooperation between Headstart and our educational system.

Let me stress that the amendment will not change those agencies which have the day-to-day contact with these children.

I emphasize this point for the benefit of the Senator from Pennsylvania because I think it is important to recognize I am not changing these agencies. I have specifically provided in section 802(A)(2) that the local operational agency may be a community action agency, a public or private nonprofit agency or organization, or a local educational agency. What the amendment does is to shift the top level supervision and coordination of all these activities from the Federal Government in Washington to the State educational agency if an acceptable State plan has been developed.

Mr. President, my amendment does not in any way shut off the community or parents from participation nor does the amendment reduce in any way the comprehensive social and health benefits the children receive under the present Headstart program. Section 802(A)(6) of the amendment requires that the State plan shall "provide a balanced program to meet the educational, nutritional, health, clothing, and other unique needs of children from impoverished backgrounds in order for them to function at optimum levels in relationship to other children."

Direct contracting authority is given to the Secretary in order that he may deal directly with the community action agency, the public or private nonprofit agency or local educational agency. Such authority is provided by section 804(c) of the amendment in the event a State fails to submit a State plan, or having submitted such a plan to the Secretary, it is the Secretary's judgment that the plan would prevent operation of any acceptable program.

I have drafted this amendment to be effective in fiscal year 1970—not immediately—in order that any technical problems may be ironed out before the effective date of transfer. This provides a full year to make the necessary arrangements, surely sufficient leadtime.

The amendment also seeks to strengthen Headstart by earmarking funds for the program. The authorization for fiscal year 1970 would be $375 million.

The money involved in the Headstart program, if transferred to the Office of Education would be channeled through the State school agencies. They would determine which programs were going to continue, and where the actual needs are. The people most intimately connected

with the school system, the educational process of our young people, would therefore, State by State, be in charge of this program.

The division of money among the States would be handled with exactly the same formula as it is under the Economic Opportunity Act, with one minor exception.

At the present time, the director of the war on poverty has the right to retain 20 percent of the total funds for distribution as he wishes. It does not seem to me that the Director of OEO, the Secretary of HEW, or the Commissioner of Education, should have unlimited discretion as to what to do with 20 percent of the funds that are to be authorized. I have, therefore, reduced the Commissioner's share to 10 percent. Even this figure provides a substantial amount of flexibility. Under the 10 percent formula, the Commissioner's discretionary fund would be $37.5 million, a large amount of money to put into the hands of one man to spend wherever he feels is advisable.

I think this is important.

Those groups who endorse the concept of transferring Headstart are:

The Council of Chief State School Officers, The Great Cities for School Improvement, The National Congress of Parents and Teachers—

Commonly known as the PTA—

The National Association of State School Boards and the National Education Association, all of whom are intimately connected with the matter to which the amendment is directed.

In 1966, Secretary of HEW Gardner went on record stating that—

Eventually, all these pre-school efforts will have to find their home in our department.

Moreover, last month, in announcing the shift of the Foster Grandparent Program from OEO to HEW, Acting OEO Director Harding said:

This is in line with longstanding OEO policy that projects should be shifted to other agencies when they have been fully developed and when the interests of poor people are adequately safeguarded by the provisions for transfer, thereby freeing OEO to innovate new approaches to the elimination of poverty.

Mr. President, we cannot afford to continue having a program administered by the second best agency. We, therefore, should transfer Headstart to the Office of Education. This transfer will not only assure the successful continuance of the Headstart program, but it will bring about a better follow-through in the elementary and secondary grades by interjecting Headstart into the educational system where it properly belongs.

Mr. President, this is going to be a difficult vote, I am sure, for many Senators. It will be a difficult vote because it is always difficult to take a program which is doing well, and shift it to another department. It will be said, I am sure, that if Headstart is already working well, why should it be shifted? The answer is that for the most part it is working well only where it is within the established channels and coordinated properly through the school system. These problems have been discussed in substantial detail in the committee.

Let me give the Senate a specific example for the record, as I think it will be of interest to all Senators.

Two years ago, we were able to use the Committee on Labor and Public Welfare specifically to fund Headstart. We tried to put it into the Office of Education but that was not successful. Then we said, "All right, let us specifically authorize funding for the project." Fine. We did that for 1 year.

Last year the issue arose again and we said, "How about putting Headstart in the Office of Education?"

Again the administration forces said, "No; we are not ready." We replied, "All right, let us specifically fund it again and make sure that Headstart goes forward."

The majority in committee said, "No; we will put all the funding within the Community Action programs which will give flexibility."

That may be true, but it also permits the Director of the war on poverty to eliminate Headstart or use Headstart funds for unrelated programs whenever he wants. Headstart being one of the really successful programs, it does not make sense to me to place it in jeopardy by allowing the Director of OEO sole discretion as to whether it should be continued or funded.

We have brought up this program on the floor of the Senate during the process of debate last year, and the majority party voted us down when we tried to earmark funds for the program. We tried to put it into the Office of Education last year and the majority party voted us down again. Their rationale still was the timing was not right.

It seems to me that the events of the past year have proved conclusively the need for specifically funding Headstart and placing the program into the agency dealing with the educational process.

I say that for this reason: You will recall the effort already made by the distinguished Senator from New York [Mr. JAVITS], and many other Senators, to increase the funding of Headstart. The program had been cut back in the budgetary process and did not have enough funds to continue through the summer.

Why did it not have enough funds? Because the Congress did not earmark an amount for Headstart. The Community Action Program, under OEO, could do whatever it wanted in the way of implementing Headstart or not implementing it. I think Headstart is a very important program and we must move forward with it. I therefore urge all Senators to think about this very seriously. Otherwise, we could suddenly find ourselves with no Headstart program at all.

It is for the foregoing reasons that I strongly urge support of this amendment by the Senate.

Mr. MURPHY. Mr. President, will the Senator from Colorado yield for a question?

Mr. DOMINICK. I yield.

Mr. MURPHY. With regard to the point the Senator just made, the Senator will recall, last year, there was a great deal of publicity all across the country that Headstart would be one of the programs which would be cut, while at that time there were other programs, some which were unnecessary that would be funded. I got the feeling there might be some sort of pressure being placed on the Congress in a sense, in order to put pressure on us to devote more funds to other Federal programs actually than the fiscal position of the country could stand. Did the Senator from Colorado get that feeling last year?

Mr. DOMINICK. I had exactly the same feeling. I thought that this would develop at such time as they refused specifically to fund the Headstart program. The need for more money in Headstart has been exhibited time and again on the floor of the Senate. The Senate, of course, rejected an appropriations conference report earlier this year because an additional $25 million for Headstart was not included. I think these things occurred because the administration was using Headsart in order to whip Congress.

Mr. MURPHY. That is exactly the feeling I had about it. One reason I coauthor this amendment of is that it will assure that Headstart funds will be used for Headstart. It is a good program. It should be properly funded and properly developed. The pending amendment will see that this happens.

Mr. DOMINICK. Mr. President, I sincerely appreciate the support and cosponsorship of the Senator from California who has worked so hard on this program—and well I know.

Mr. President, I yield 3 minutes to the distinguished junior Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Mr. President, I certainly thank the Senator.

Mr. President, in support of this amendment, I speak from experience and because of direct contact with the Headstart programs in my State, some of which, but by no means all of which, I have objected to. I objected to those in which there was mismanagement and failure to account for all of the funds. Those facts were well established and proven to the extent that Mr. Shriver cut off some of those projects because of the facts above mentioned. Later, after claiming to improve their methods, they were reinstated. There was proof that too little of the money was spent on the children and too much on the employees.

I use that statement as a background to say that many, and most, of the Headstart programs that have been handled by educators or those who were closely allied with or had affinity with the educational programs in the communities have been outstanding successes.

I highly commend the Senators for offering this amendment, because I believe the best possible way to handle the Headstart program is to put it in the hands of people who know something about it and who have the know-how, the dedication, and the experience to impart the training and improve the children.

I highly commend the Senator from Oregon [Mr. MORSE] for his support of this amendment. I have worked with him on this and many other matters. I know where his heart and judgment are with respect to the children and the administration of these programs. He did monumental work here last year on the education bill. I was highly pleased to learn

he is supporting this amendment. I am not surprised. I believe his support will make the difference and that this amendment will be adopted and this program will then have its rightful place in our special education program.

I thank the Senator from Colorado very much for yielding to me, and I commend him again for his efforts.

Mr. DOMINICK. Mr. President, I certainly welcome the support of the very distinguished Senator from Mississippi. His able assistance will be very helpful in our effort to have the amendment adopted. I know what he says comes from the heart and from full knowledge of the programs going on in his State.

Mr. MORSE. Mr. President, I want the RECORD to show that the Senator from Pennsylvania [Mr. CLARK] will have charge of dividing the time in opposition to the amendment.

The PRESIDING OFFICER. The RECORD will so specify.

Mr. DOMINICK. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MORSE. I would like to suggest that we hear from the Senator from Pennsylvania. I would like to speak later.

Mr. DOMINICK. Mr. President, I reserve the balance of my time.

Mr. CLARK. Mr. President, I yield myself as much time as I may require. I would appreciate the attention—which I know I shall have—of my able friend from Oregon.

This amendment is an attempt to impose a shotgun wedding on a reluctant bride and an angry groom. The bride is the Headstart program in the Office of Economic Opportunity. It does not want to get married to the Office of Education or the Department of Health, Education, and Welfare.

In this connection, I ask unanimous consent that a letter from Mr. Bertram Harding, the administrator of the Office of Economic Opportunity, expressing his strong objection to this transfer, may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF ECONOMIC OPPORTUNITY,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., July 16, 1968.

HON. JOSEPH S. CLARK,
Chairman, Subcommittee on Employment, Manpower and Poverty, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I understand the Senate will consider on July 17 an amendment to the Elementary and Secondary Education Act proposed by Senator Dominick on the floor of the Senate which would transfer the Head Start program from the Office of Economic Opportunity to the Office of Education. We are not in favor of divesting the Office of Economic Opportunity of responsibility for the Head Start program at this time. *Further, I believe that any proposal, regardless of its merits, which would transfer a program of Head Start's magnitude and complexity should be given serious and careful consideration in Committee hearings in which all interested persons would have the opportunity to express their views.* I do not mean to assert that the Head Start program should remain permanently within OEO. However, should it be proposed for transfer to some other agency, I believe that such a proposal should be given the most careful and thoughtful consideration. For example, there are some who believe that Head Start might be more appropriately administered by the Children's Bureau.

As to the amendment itself, I have the following serious reservations:

1. The amendment proposes that, in those communities without community action agencies, grants be made by state departments of education directly to local education agencies. We believe that this particular provision is inadequate for the following reasons:

(a) Our experience tells us that most school systems are not yet ready to operate a program which is of Head Start's comprehensive nature.

(b) We fear that some of those communities that do not have community action agencies and which now have Head Start programs operated by churches, private school systems, and private non-profit agencies such as neighborhood centers and settlement houses, would be denied the opportunity to continue their programs. Furthermore, in these communities, such agencies would not be permitted to operate programs in the future. We believe this diversity in program sponsorship of Head Start is one of its greatest strengths.

(c) There are some school systems where state law does not permit the operation of preschool programs within public school facilities. This, too, could have the effect of eliminating Head Start from some communities.

(d) Approximately 30 percent of all Head Start programs are day care type programs. School systems are not geared up at the present time to handle programs of this scope. Once again Head Start would probably have to be dropped in those communities.

2. A serious deficiency in the proposed amendment is the omission of the requirement of parent participation in Head Start program activities. This requirement is currently part of the Economic Opportunity Act. A growing body of research points to the decisive importance of factors outside the teacher-child relationship in determining whether and how much a child is able to learn. We are convinced that a school-only oriented approach is doomed to failure unless it is accompanied by equal emphasis on motivational and social development through active involvement in the program by parents, older children, and other members of the community. Such a view is an inherent part of all Head Start programs and must, we believe, continue to be required. As the National Education Association has testified previously, school systems are not ready to work with parents on anything resembling this basis.

3. The amendment contains no authorization for training, technical assistance, evaluation, or research.

4. The amendment limits participation to children from ages 3 through 7. Head Start now provides funds for some programs for children below the age of 3.

5. The formula for distribution of funds spelled out in the proposed amendment might very well result in the need to close down some of the ongoing programs because funds would be inadequate to continue them.

6. The amendment is unclear as to whether the Federal assistance it authorizes for preschool programs should be for the economically deprived [Sec. 802(a)(7)] or the "educationally deprived" [Sec. 802(b)(1)]. This is a crucial difference. Head Start is directed toward the poor; at least 90 percent of the children enrolled in Head Start must meet the economic poverty line established by OEO. We strongly believe that until funding for Head Start is considerably larger, any legislation affecting Head Start should continue this concept.

Sincerely,

BERTRAND M. HARDING,
Acting Director.

Mr. CLARK. Mr. President, the groom does not want to marry the bride, either.

Mr. DOMINICK. Mr. President, may I ask the Senator if copies of that letter are available?

Mr. CLARK. Yes. A copy is on each desk.

Mr. DOMINICK. I do not see an OEO letterhead. How is it identified?

Mr. CLARK. On the cover sheet are the words "Arguments Against Transfer of Headstart to Office of Education—Dominick Amendment." Under the cover sheet is Mr. Harding's letter.

Mr. DOMINICK. I thank the Senator.

Mr. CLARK. The groom does not want to marry the bride, either.

I have a letter from Harold Howe, Commissioner of Education, which I shall read into the RECORD:

DEAR SENATOR CLARK: I understand that a proposal to shift Headstart to HEW may come before the Senate.

Similar proposals have been made from time to time, and when my opinion has been sought I have expressed the view that there is no need for such a shift. Headstart operates well where it is. Our relationships with it in the Office of Education seem to me to be working effectively.

Under delegation from OEO, we are responsible for the Follow Through Program which builds upon Headstart. The development of that program has further enhanced cooperative arrangement between OEO and the Office of Education.

My recommendation is that the Senate would be wise to reject the proposed change.

Sincerely,

HAROLD HOWE II.

Now, Mr. President, the bridegroom has a father, and the father is opposed to this shotgun wedding also. The father, of course, is the Secretary of Health, Education, and Welfare. I have in my hand——

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. CLARK. No, not now. I shall be glad to yield later.

I have a letter in my hand from Wilbur J. Cohen, Secretary of Health, Education, and Welfare, saying that he is not requesting nor does he seek the reassignment of Headstart to "us"—that means HEW—at this time.

I ask unanimous consent that the complete text of Mr. Cohen's letter may be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 16, 1968.

HON. JOSEPH S. CLARK, Jr.,
Chairman, Subcommittee on Employment and Manpower, U.S. Senate, Washington, D.C.

DEAR SENATOR CLARK: This is in response to your request for my views on the advisability of transferring administration of the Head Start program from the Office of Economic Opportunity to the Department of Health, Education, and Welfare.

It is obvious that the Head Start program is related to the broad responsibilities of this Department in such areas as Title I of the Elementary and Secondary Education Act, Follow Through, and the activities of the Children's Bureau. Nevertheless, we are not requesting nor do we seek the reassignment of Head Start to us at this time.

Head Start was imaginatively developed by the Office of Economic Opportunity as part

of a broad-scale and coordinated attack on the many social problems—nutritional, medical, psychological, as well as educational—which contribute to the cycle of poverty. In this comprehensive format, Head Start has functioned exceedingly well under the Office of Economic Opportunity and, consequently, we believe that its assignment there should be continued.

The Department of Health, Education, and Welfare has a deep interest in and heavy responsibilities for improving the lives and opportunities of the poor. In discharging these responsibilities we will continue to work closely with the Office of Economic Opportunity and with its administration of the Head Start program.

Sincerely,

WILBUR J. COHEN, *Secretary.*

Mr. DOMINICK. Mr. President, will the Senator read the whole letter?

Mr. CLARK. No. I do not have time to read the whole letter. The Senator may read it on his own time.

Mr. DOMINICK. Just as a matter of clarification——

Mr. CLARK. Mr. President, I do not yield.

Mr. MURPHY. Mr. President, will the Senator let us know when he is ready to yield?

Mr. CLARK. I will be glad to; and I will yield first to the Senator from California, since he asked me.

There are a lot of friends of the bride and the bridegroom who do not want the shotgun wedding, either, and among the most influential, to my way of thinking, is Arthur S. Flemming, former Secretary of Health, Education, and Welfare, and now president of the National Council of Churches. I read his telegram:

The Dominick-Murphy amendment to the Vocational Education Amendments of 1968, if passed, would seriously undercut the principle of maximum feasible participation of the poor in developing and directing the Headstart programs. A direct result of the transfer of Headstart programs . . . would be that in many States churches and church related agencies would no longer sponsor Headstart programs—

Just today, at a quarter to 1, the Senator from Colorado rewrote his amendment by making 30 different changes in it; and there is not now anywhere in this Chamber a complete copy of the amendment. We have the amendment he offered last Friday. That is printed. This morning he comes in with 30 changes, completely rewriting the amendment, and we still do not have the amendment with those changes in it.

So Mr. Flemming made one of his objections applicable to the old amendment, not the new one. It is true that in some States, church and church-related agencies sponsor Headstart programs.

Continuing with Mr. Flemming's telegram:

We believe that churches have played a vital role in the success of this program and to take the action which the amendment directs would result in a much less effective method of helping to overcome poverty.

I ask unanimous consent that a copy of that telegram may be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 16, 1968.

The Dominick-Murphy amendment to the vocational education amendments of 1968 (S. 3770) if passed, would seriously undercut the principle of maximum feasible participation of the poor in developing and directing Headstart programs. A direct result of the transfer of Headstart programs to the Department of Health, Education and Welfare would be that in many States, churches and church related agencies could no longer sponsor Headstart programs. We believe that churches have played a vital role in the success of this program and to take the action which the amendment directs would result in a much less effective method of helping to overcome poverty.

ARTHUR S. FLEMMING,
President,
National Council of Churches.

Mr. CLARK. Now, Mr. President, the bride and the bridegroom have some other friends who are strongly opposed to this shotgun marriage, and among the more important ones are the American Federation of Labor, the Congress of Industrial Organizations. I have here a letter signed by Andrew G. Biemiller, head of the AFL–CIO, opposing this amendment. I read one sentence:

The AFL–CIO strongly opposes an amendment offered by Senator Dominick that would transfer the Headstart Program from the Office of Economic Opportunity to the Office of Education.

I ask unanimous consent that a copy of that letter may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATION,
Washington, D.C., July 16, 1968.

DEAR SENATOR: Two important amendments to the Vocational Education Act will be voted upon Wednesday, July 17.

The AFL–CIO strongly *supports* the bipartisan amendment offered by Senators Javits, Clark, Brooke, and Hart providing additional funds for the National School Lunch and Child Nutrition Acts.

The funds provided for the school lunch program under this amendment are badly needed—now. The $100 million for each of three years called for by the amendment would be taken from the Department of Agriculture's "Section 32" funds.

Affirmative action by the Senate will permit speedy enactment since the House already has passed identical legislation by an overwhelming vote.

The AFL–CIO strongly *opposes* an amendment offered by Senator Dominick that would transfer the Headstart program from the Office of Economic Opportunity to the Office of Education.

This same amendment was offered by Senator Dominick last year during Senate debate on the Economic Opportunity Amendments of 1967. On September 27, 1967, the amendment was defeated by a 35–54 vote. No hearings have been held since that time nor is there any new evidence to justify the need for this amendment.

The AFL–CIO does, of course, support passage of the Vocational Education Act of 1968.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

Mr. CLARK. As many of my friends know, there are times when the Industrial Union Division of the AFL–CIO does not see eye to eye with the parent organization. I have here a telegram signed by Jacob Clayman, investigative director of the Industrial Union Department of the AFL–CIO, opposing the Dominick amendment. I ask unanimous consent that that telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

We also urge you to oppose the Dominick amendment to the Vocational Education Act which will transfer the Headstart program from the Office of Economic Opportunity to the Department of Health, Education, and Welfare. Last year the Senate overwhelmingly rejected this move, and we urge that it be rejected since there have been no hearings to demonstrate the merits of such a transfer.

Mr. CLARK. Now let us see how this amendment comes to the floor of the Senate.

In the first place, an almost identical amendment was rejected by the Senate last year, by a vote of 54 to 35; and, while the House of Representatives wanted to transfer Headstart to the Office of Education, we prevailed in conference, and the change was not made.

At that time, it was agreed that the Office of Economic Opportunity should have a 2-year lease on life, and that for 2 years no effort would be made to rip out these various agencies which, in my judgment, it has been operating extremely well.

Thus, the pending proposal is a violation of congressional intent, as shown by that conference report of last year, where the House and Senate agreed—and the conference report was approved in each House by a large majority. We agreed that we would not change any of these agencies until after a 2-year period had gone by, and we could legislate in calm and quiet with respect to whether any of these various programs should be transferred elsewhere and out of OEO.

Mr. President, this shotgun wedding was promoted without any legislative hearing, without any testimony, without any discussion within the Committee on Labor and Public Welfare as to whether this was a wise thing to do.

I believe most Senators agree with me that when it is proposed to make an important change in jurisdictional authority by legislative fiat, the commonsense thing to do is to refer the matter to a committee to hold some hearings, to take some testimony, and to have a markup discussion within the committee, at which different points of view may be expressed.

Mr. President, that was not done. There was no discussion within the Committee on Labor and Public Welfare, or within the subcommittee on which the Senator from Colorado serves. There were no hearings, and there was no testimony.

Moreover, Mr. President, this amendment has been rewritten completely. Thirty different changes were made in it between the time it was offered 2 days ago and the time it comes to the floor for decision today. Those 30 changes are, to me, utterly unintelligible. I have tried to understand it. I ask Senators to look

at the copies on their desks of these 30 separate changes, and then to attempt to coordinate the printed amendment with the changes; and I defy any Senator to understand what those changes would do.

I suggest, Mr. President, that this is no way to legislate on the floor of the Senate.

What this amendment would do, in addition to other things, is make a block grant of Headstart funds to the various States, without any Federal standards at all, in direct violation of what we did on the floor of the Senate in connection with the juvenile delinquency bill only a week ago, and to turn the Headstart program over to the tender mercies of those States, including that of the Senator from Mississippi, who just spoke on the matter, which have no interest in the program and would like to see it emasculated.

I suggest, Mr. President, that that is no way to handle legislation on the floor of the Senate.

It may be that one day it will be desirable to transfer Headstart to the Office of Education. But we cannot do it now without injuring the program. It is too late for this year, and too late for next year. Next year, let us meet the issue head on again. Next year, let us see whether we wish to change that 54-to-35 vote by which we refused to change Headstart last year. But let us not put through a shotgun wedding now, with a vote coming up in 30 minutes and only 10 Senators present in the Chamber. I beg my colleagues to leave this fine program which is dealing so successfully with hundreds of thousands of children—indeed, millions, over the years—where it is, in the hands of a sympathetic agency which knows how to run it. I do not say anything in derogation of the Office of Education. It is a fine agency. Mr. Howe, the Commissioner, is a good friend of mine. But I am sure this old, shopworn agency would do its best to substitute its traditional methods of operation for some of the vision and imagination which the program is presently receiving.

I am happy to yield now to the Senator from California, but I suggest that if he wishes to make a speech instead of ask a question, he obtain his time from the Senator from Colorado.

Mr. MURPHY. Mr. President, the Senator referred to a shotgun wedding. I proposed to ask the question, Who is holding the gun?

Mr. CLARK. The Senator from Colorado [Mr. DOMINICK].

Mr. MURPHY. I wonder whether the Senator's use of that term is influenced by the proposed gun control legislation which he so earnestly advocates.

Mr. CLARK. Mr. President, I hope we will get a gun control bill before we get out of here this year, which will make this kind of shotgun wedding illegal.

Mr. MURPHY. We hope we will get this educational change, too, before we get out of here today, which will improve the way in which the entire operation has been handled. The Senator from Pennsylvania has done a magnificent job for OEO over the years; it seems to me a shame that the performance of that organization has not been up to the quality of the defense the Senator from Pennsylvania has been making for it here on the floor of the Senate.

Mr. CLARK. Do I understand the Senator is talking on the time of the Senator from Colorado?

Mr. MURPHY. No; I ask the Senator from Oregon for 2 minutes on the bill, if I may have it.

Mr. MORSE. I yield the Senator 2 minutes.

Mr. MURPHY. Mr. President, as a cosponsor, I rise in support of this amendment to transfer Headstart from the Office of Economic Opportunity to the Office of Education.

Headstart, as the Senators know, is a popular preschool program. It is presently funded under both title I of the Elementary and Secondary Education Act and under the Economic Opportunity Act. The premise of this program is very sound. By starting a youngster, particularly a youngster whose home environment for education is limited, the program seeks to give young boys and girls a "headstart" so they might have an "equal start" with other youngsters.

Experts tell us that the early years of a child's life are the crucial ones and have the greatest influence on the child's future development. Further, we know that disadvantaged youngsters when they enter school are 1 year behind the average child in academic performance. By age 12, these youngsters have fallen behind 2 full years. Headstart seeks to reverse this. While evidence to date is not conclusive, preliminary studies suggest that an early effort to improve the education and the educational environment of children will produce educational dividends. Certainly the preventive attack of the Headstart program at the root of the problem seems less costly and more effective than remedial and repair efforts after the youngster has progressed in his school career.

Headstart programs should be expanded to cover all the disadvantaged youngsters and transferring this program to the Office of Education will, in my judgment, result in higher funding levels for the Headstart program. I am also convinced that if the Office of Education administered the Headstart program we would not have witnessed the siphoning off of Headstart funds to other programs. As the Senators probably know, the Economic Opportunity Act does not earmark funds for the Headstart program; thus, the Headstart program is lumped in with the other community action programs and it is required to compete for funds at the will of the bureaucrats. Evidence indicates that the will of the bureaucrats at OEO has not given Headstart the needed priority. The fact that the Senate repeatedly has attempted to add the $25 million to Headstart that the Office of Economic Opportunity had transferred to other programs indicates that OEO is not giving Headstart the priority that the American people, educators, and the Congress believe it needs and merits. This, then, is one good reason that the program should be transferred.

With both the Office of Education and the Office of Economic Opportunity administering Headstart programs, duplication, double paperwork, and conflicting regulations often result. As a member of the Labor and Public Welfare Subcommittee on Education and the Subcommittee on Employment, Manpower and Poverty, I am in a favorable position to view both the poverty and educational programs. I am convinced that the education programs should be transferred to the Office of Education.

Presently, Mr. President, title I of the Elementary and Secondary Education Act is administered by the Office of Education, and under this act Headstart programs are funded. I have seen no evidence that the Office of Education's Headstart programs are less effective than the Office of Economic Opportunity's programs. I believe that I adequately answered the typical OEO arguments in my floor statement last year on a similar amendment when I said:

> Stripping away the typical OEO rhetoric, their opposition boils down to the reluctancy on the part of one bureaucracy to lose a program and particularly the funds to another bureaucracy. The Office of Economic Opportunity contends that the transfer of Head Start to the Office of Education would result in "more of the same." The implication is that the Office of Education would not be able to administer the program as effectively as the Office of Economic Opportunity. Well, Mr. President, I have listened since 1965 to the Office of Economic Opportunity's presentation to the Poverty Subcommittee, and I submit the record fails to disclose that the Office of Economic Opportunity possesses administrative ability superior to any other agency. Program administration has not been one of the shining attributes of the Office of Economic Opportunity. In examining the record of the Office of Economic Opportunity, one finds a record replete with administrative difficulties. The record shows that some of the most elementary administrative changes have come along only as a result of congressional prodding.
>
> Mr. President, the Congress of the United States has given the Office of Education the responsibility of administering education programs. The Office of Education administers Title I of the Elementary and Secondary Education Act which provides Federal assistance aimed at improving the education of various poor and disadvantaged youngsters. If we cannot trust the Office of Education to administer education programs, such as Head Start, if to transfer the Head Start Program to the Office of Education will produce "more of the same," then I submit we had better do something about the Office of Education. When we have a Federal agency assigned the responsibility of education, then those programs involving education should be administered by that agency. If the agency fails to carry out its responsibility, then the agency should be required to "shape up." If it fails to shape up, then its head should be replaced. Certainly, however, the answer is not to create another agency to carry out the same responsibilities and to duplicate its functions. Layer after layer, whether horizontal or vertical, of Federal bureaucracies is not conducive to efficiency and to effective programs.

I believe it was in 1965 that we transferred adult education from OEO to the Office of Education. OEO resisted then as they are now, but I have seen no evidence that adult education is not being administered effectively. If the contrary is the case, I would hope that evidence will be placed in the RECORD today.

Last year we transferred Follow Through from the Office of Economic Opportunity to the Office of Education.

Again, OEO resisted and painted dreary pictures of what would happen if the program got into the education establishment. Again, I have seen no evidence that suggests that the Office of Education is not administering the Follow Through program effectively. If the contrary is true, I would hope that evidence will be placed in the RECORD.

Now, Mr. President, again this year OEO is beating the drums and predicting the dire consequences of what the effect of a transfer of an educational program from them to the Office of Education will be. Mr. President, as was the case with adult education, as was the case of Follow Through, OEO's contentions simply do not stand up. In short, the Office of Economic Opportunity has cried wolf all too often. Their cries in the past have failed to materialize. Their expressed fears on the transfer of Headstart will prove to be equally false.

Mr. President, in the Senate Labor and Public Welfare Committee's report on Higher Education, the rationale of the committee's decision to transfer Upward Bound to the Office of Education is stated as follows:

> The Committee is firmly committed to the principle that education programs should be administered in a single coordinated program at the Federal level in order to avoid overlap and duplication and to increase efficiency.
>
> The basic philosophy behind the Economic Opportunity Act when it was enacted in 1964 was that the Office of Economic Opportunity would initiate new programs and if they developed into stable operational programs, those which are successful would be transferred to existing agencies.

The reasons given by the committee for the transfer of Upward Bound are equally applicable to the transfer of Headstart. The transfer would permit a "single coordinated program." It would "avoid overlap and duplication" and more importantly, it would "increase efficiency," and, in my opinion, result in a needed expansion of the Headstart program.

Mr. President, the Senator from Pennsylvania read a list of people who sponsored his position, as opposed to the position taken on the amendment of the distinguished Senator from Colorado. He said his position was supported by various labor leaders. While they may have an interest in education, education is not their primary field or their area of greatest expertise.

I point out that in seeking the transfer of Headstart to the Office of Education, we simply are saying—what we are asking is to have educators run this educational program. This transfer will eliminate overlaps, do away with duplications and unnecessary costs. There is no question that this amendment has a great deal of support across the country.

Last year, for example, the transfer was supported by the National Education Association, the American Association of School Administrators, the National State School Boards Association, the National Association of State Boards of Education, the National Congress of Parents and Teachers, and the Council of Chief State School Officers.

In his letter to Senator WAYNE MORSE dated August 14, Dr. Edgar Shuler, executive secretary of the Council of Chief State School officers, said that that organization strongly supported such a transfer.

So it seems that while labor leaders may oppose this transfer, the experts in the field, educators and people dealing directly in matters of education, strongly favor it.

Mr. President, I strongly urge the acceptance of this amendment.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MURPHY. May I have 30 seconds more?

Mr. MORSE. I yield the Senator 1 additional minute on the bill.

Mr. MURPHY. I point out that although direct formal hearings were not held, this matter did not come to the floor as a surprise, as may have been indicated. This matter has been discussed, talked about, and thought about for years to the knowledge of this Senator, and it is the considered opinion of many of us on the committee that this is a move that should have been made a year ago, and perhaps would have been made a year ago had enough Senators taken the trouble to discover all the impact of the duplication and the problems created by having an educational program administered in an entirely different area.

So, I urge my colleagues most enthusiastically to support the Dominick amendment. I think it is an amendment that we in the Senate would be most happy to have included in the bill.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. Mr. President, I yield 1 additional minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 1 additional minute.

Mr. LAUSCHE. Mr. President, do I correctly understand the Senator from California to say that the labor leaders are against the bill and the educators are for it?

Mr. MURPHY. That would be the indication from the messages that have been placed in the RECORD by the distinguished Senator from Pennsylvania. And the messages we had a year ago would indicate that the group of educators I have just mentioned are in favor of transferring the program from the Office of Economic Opportunity to the Department of Health, Education, and Welfare.

The labor leaders oppose the amendment and the educators that I have mentioned are for the amendment.

Mr. LAUSCHE. What is the position of the Senator from California?

Mr. MURPHY. I am for the amendment. I am a cosponsor.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I have very great sympathy with the amendment which has been offered by the Senator from Colorado, although I did vote against it last time it was being considered and I shall vote against it today.

I could not cast this vote however, without expressing my profound understanding of what is here sought to be done. I think it has to be done ultimately. I think it is a question of time. And as we handled the Upward Bound program on the basis of a change to the Office of Education effective fiscal year 1971, I would have hoped that we could have effectuated the transfer of the Headstart program in the same way by making it effective in the 1971 fiscal year.

I have tried to bring that about, but apparently this is not possible because of the different viewpoints between the various parties in interest.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 1 minute on the bill.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. Mr. President, I shall vote against the amendment. However, I tell my esteemed colleagues, the Senator from Colorado and the Senator from California, that I shall do my utmost in the Labor and Public Welfare Committee to work out an orderly transfer of the Headstart program to the Office of Education, as we consider bills pertinent to the matter, with the objective of effectuating the transfer at fiscal year 1971.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. HARRIS. Mr. President, I rise in opposition to the amendment. I think that everyone—both those who agree and those who disagree with the major thrust of the programs administered by the Office of Economic Opportunity—believes that Headstart is one of the greatest programs of any kind ever developed in this country.

Although so far the funds for Headstart have been pitifully small, the program has begun to help us do our duty to the poor and disadvantaged and deprived children in this, the richest country on the face of the earth.

Mr. President, although we have only just begun, I think the most important thing about Headstart has not been its small beginning, but the innovative, creative, and imaginative way in which it has been initiated and carried out so far. We ought to be very careful not to place unnecessary obstacles in the path of the innovative people who are working so hard to bring desperately needed special attention to deprived preschool children. There are far more of these children, as a matter of fact, than we have been able to provide for under the program to date.

I think that we can be proud of this program. I feel certain that the American people are proud of the program. I do not believe that the American people want us to alter the Headstart program on the floor of the Senate without the Senate having had very careful hear-

ings and mature consideration of how we ought to proceed to change or expand it.

I certainly agree that Headstart ought to become a permanent part of the educational program of the country. But I am equally certain that we must not go about achieving that objective in an irregular, disorderly manner on the floor of the Senate without the indispensable background that recent and careful hearings can provide.

Mr. President, I oppose the amendment.

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORSE. Mr. President, how much time does the Senator from Colorado have remaining on the amendment?

The PRESIDING OFFICER. The Senator from Colorado has 4 minutes remaining.

Mr. MORSE. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. MORSE. Mr. President, may I answer the Senator from Oklahoma and the Senator from Pennsylvania in the remarks I now make. No member of the Senate Education Committee has been taken by surprise by the pending amendment.

It has been discussed time and time again. We know what is involved on the committee. We had hearings last year. However, there were discussions this year in regard to the problems. We did not need hearings this year again. The issue is very simple, as the chairman of the Subcommittee on Education now speaking says—and I am for the amendment—that the educational programs now in the Office of Economic Opportunity should be brought under one administration—and that is in the Office of Health, Education, and Welfare.

We have in the pending bill the transfer of the Upward Bound program to that agency. That is an education program.

Why did we bring to the floor of the Senate a recommendation to transfer Upward Bound? It was for the reason I now give—that we ought to put these education programs under the Department of Health, Education, and Welfare in the Office of Education, the agency that has jurisdiction over education in this country. We ought not to continue to have these programs in another department with the additional administrative cost and jurisdictional problems involved.

It is said that the administration wants it to remain in the Office of Economic Opportunity. Of course they do. A letter from Mr. Harding has been introduced. What do we expect to happen? Of course, as members of the team, they are carrying out the will of the Administration. It is not the responsibility of the administration to pass legislation and determine jurisdiction under that legislation as to where programs are to be administered.

That happens to be the prerogative and the duty of the Congress of the United States. I do not propose, as chairman of the subcommittee, to have the White House or the Department of Health, Education, and Welfare or Mr. Harding or anyone else tell me where education programs ought to be vested as far as jurisdiction is concerned.

The program belongs in the Department of Health, Education, and Welfare, and in the Office of Education just as the Upward Bound program does.

Let me make a point about the comments made by the Senator from New York about fiscal year 1971, to the effect that he would be more inclined to go along with the amendment if it were postponed until 1971.

That is included in the Upward Bound transfer. It is a mistake. We will have a fight in conference about it, I assure the Senate, because the year 1971 does not have any authorization contained in the pending bill. It is a transfer of a vacuum. Of course, by a vote of 7 to 6 in the Committee on Labor and Public Welfare, the Upward Bound program was transferred, to become effective in 1971.

We could have had an overwhelming majority in favor of the transfer to 1970. However, on the Upward Bound program, we have a vacuum year. It is not even covered by authorization.

It should have been transferred, but it should have been transferred effective to 1970. We will end up with this sooner or later, and not with 1971.

The proposal of the Senator from Colorado fixes 1970 as the year for the transfer. There is plenty of time to make the adjustment.

If we listen to some of the arguments made this afternoon, we would think we would just end the program. That is not true at all. The program is going to continue. It will continue without any diminishment by the Office of Education.

I have these reasons that I want to stress in support of the amendment.

The amendment continues in an established pattern the bringing within the purview of normal governmental agency operations a program which has survived the test.

I am persuaded that the dedication of the Health, Education, and Welfare personnel and the Office of Education personnel to the welfare of the children is certainly a very strong dedication. It is not less than the dedication of any other agency.

Mr. President, it has been taken for granted here that the program has moved along smoothly. It is a very spotty program. There are areas in this country in which there has been great criticism of the Office of Economic Opportunity with respect to the administration of some of the educational programs.

It happens to be one of the reasons why I thought it was so clear that we ought to take Upward Bound away from them. It is also the reason why I think we ought to take the Headstart program away from them.

In my State there is much criticism of the administrative policies of the Office of Economic Opportunity; and I can take the witness stand before any committee in the Senate that wants to hear me on it and be a witness against the Office of Economic Opportunity in its handling of one program after another in my State. In my State, the Office of Economic Opportunity has been characterized by inefficiency, by waste, and by maladministration, in project after project.

Mr. President, talking about a shotgun marriage, let me say that I am going to keep my eyes on our children, who are already the products of existing marriage, who come under the Headstart program. If we are going to be interested in those children—and we had better be interested in those children—then we should get this program out of the Office of Economic Opportunity and under the jurisdiction of the educators who have charge of the Office of Education in the Department of Health, Education, and Welfare.

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). The time of the Senator has expired.

Mr. MORSE. I yield myself 1 minute.

Mr. President, I believe it is time for Congress affirmatively to exercise its rightful role of deciding how the executive agencies should carry out the authorities granted by the legislation we enact. That is not for the administration to determine, as I have said. It is for Congress to determine. This is a responsibility we should not attempt to evade by granting undue flexibility to the executive branch.

I believe the overall issue before us this afternoon is where administration jurisdiction of these various educational programs should be vested.

As the chairman of the Subcommittee on Education, I will take my chances with the Department of Health, Education, and Welfare rather than with any other department of the government, when it comes to administering an education program.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. I yield myself 1 additional minute.

I believe we should consolidate this administration. We should bring all these educational programs under one office, and that is the Office of Education. Under the amendment the Senator has drafted, the administration would go to the Commissioner of Education, within the Office of Education, within the Department of Health, Education, and Welfare.

We should do in this instance what we already have done in the higher education bill, in the Upward Bound program. We should do it for this program, also, and get administration of these educational programs vested under one tent, under the control of one administrator.

Mr. CLARK. Mr. President, I yield myself such time as I may require.

I wish to say in the most friendly way to my friend, the Senator from Oregon, whose magnificent work in the field of education I am the first one to acknowledge, that there were no hearings this year on this transfer from OEO to Education—no hearings whatever, no testimony, no discussion in committee. There were hearings last year. There were many hearings last year. But those hearings

were before the Subcommittee on Employment, Manpower, and Poverty, which I chair. And after considering the testimony very carefully, indeed, we brought a bill to the floor, the poverty bill, which left Headstart just where it was, because the hearings established that it should stay where it was. The vote to support the committee last year was 54 to 53 not to transfer. Nothing has happened in the meanwhile to change that sound decision by the Senate last year.

The Senator has said that nobody was surprised by this amendment. I want the RECORD to show that not only was I surprised—I was shocked. It is true that on the last day of the markup of this bill, the Senator from Colorado indicated perhaps he might bring up a bill on the floor to transfer Headstart from OEO to the Office of Education. But he did not make any argument in support of it; he did not call any witnesses; he did not have any discussion in the committee.

So I was surprised to find the great Federal case made about this, on a record where there are no hearings, no testimony, no discussion in committee. A printed amendment comes in on Monday, and 30 changes are made in it, in typewritten form, this morning. Not a Senator in the Chamber, including me, has the remotest idea how this amendment would work once the amendment is implemented. That is no way to legislate on the floor of the Senate.

The Senator from Oregon said that he wants to continue an established pattern. But I desire to continue an established pattern. I want to leave Headstart right where it is, and that is where it belongs, because it has been a great success. So it is the Senator from Colorado who is trying to change the established pattern by moving this agency from a place where it has had conspicuous success to one where I am rather dubious they can make it work as well.

The Senator from Oregon said that he is not persuaded that the dedication of the Office of Education is as great as it is in OEO. I have no doubt that their dedication is as great. But how about the mothers and parents who run the Headstart program? How about the underprivileged children who are being taught in this Headstart program? Headstart is not just an educational program. It is a character-building program in which the mothers and parents of the children play a terribly important part. What chance will parent involvement have when the educational bureaucracy once gets over there?

I am not one who believes that there is any greater dedication in the OEO personnel than there is in the education personnel, but I know there is a great deal more know-how. These people know how to run that program. They have been doing it since 1964. The education people have no experience with the comprehensive early childhood training of underprivileged youngsters.

Finally, the Senator said that he would take the stand in support of this transfer any time there was a hearing before an impartial body. Well, I would take the stand, also, and I would oppose this transfer. I suspect, with perhaps undue arrogance—I hope not, but because my case is better—that an impartial arbitrator would say: "You'd better leave well enough alone; you'd better leave this program where it belongs, which is with the other poverty programs, in the Office of Economic Opportunity."

Mr. President, I reserve the remainder of my time. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 8 minutes remaining.

Who yields time?

Mr. PROUTY. Mr. President, will the Senator from Oregon yield me 3 or 4 minutes?

Mr. MORSE. I yield 4 minutes on the bill to the distinguished Senator from Vermont.

Mr. PROUTY. Mr. President, in its original form, I was opposed to the amendment proposed by the distinguished junior Senator from Colorado; but since it has been modified, I am happy to support it. I believe it is a good amendment and is deserving of our serious consideration.

The Senator is to be commended for bringing about the coordination of the Headstart program with related programs that we have authorized through other legislation.

As the ranking Republican on both the Subcommittee on Education and the Subcommittee on Employment, Manpower, and Poverty, having direct jurisdiction over many of the programs administered by the Department of Health, Education, and Welfare and over all of those administered by the Office of Economic Opportunity, I can assure the Senate that the transfer would be in the best interest of the children involved.

As Secretary Wilbur Cohen states in his letter of July 16 to the distinguished Senator from Pennsylvania [Mr. CLARK]:

> It is obvious that the Headstart Program is related to the broad responsibilities of this Department, in such areas as Title I of the Elementary and Secondary Education Act, Follow-Through and the activities of the Childrens Bureau.

Mr. President, the Headstart program is popular. It was successful. But its administration of late has left much to be desired. This was brought to my attention last Friday in an article in the New York Times relating to the quality of the program in New York City. It appears that the renowned and able Cities' Human Resources Administrator, Mr. Ginsberg, has deliberately turned back money to OEO because of that agency's concern over the educational experiences being afforded the children.

The copublishers of the West Side News-Manhattan Tribune, William Haddad, former Inspector General of the Office of Economic Opportunity, and Roy Innis, said in an editorial in their weekly newspaper:

> It is small wonder why the nation is so aroused over the poverty program. How can a nation justify spending money to solve the problems of poverty, when a $10 million children's program is in such bad shape that one of the most able and courageous men in city government would rather return the money to the Government than to spend it on a needed program?

The transfer of Headstart has received the full support of educators throughout the country. I have contacted education officials, representatives of private organizations, and other various groups interested in the Headstart program, and they have all assured me that they wholeheartedly supported the amendment offered by the Senator from Colorado [Mr. DOMINICK] and the Senator from California [Mr. MURPHY].

It seems to me that under the revised and modified amendment we are not going to destroy the program as it exists at the present time. We are going to have a year to make the transition normally and adequately, and I believe in the end we will achieve real progress.

Mr. President, I hope the amendment is agreed to.

Mr. DOMINICK. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, I ask unanimous consent that a copy of the article from which the Senator from Vermont [Mr. PROUTY] has just read an excerpt, may be printed in the RECORD at this point. The article is entitled "Headstart Funds Forfeited by City."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEADSTART FUNDS FORFEITED BY CITY

(By Martin Tolchin)

The city has deliberately forfeited $700,000 in Federal funds to expand the Head Start program because of concern over the quality of the program, according to Mitchell I. Ginsberg, the city's Human Resources Administrator. The program seeks to prepare 21,500 preschool children in the slums for elementary school.

"It was an across-the-board concern," Mr. Ginsberg said last night in an interview. "I was concerned about the nature of the educational experience, and I had heard that there was insufficient parent participation and misuse of staff."

Mr. Ginsberg was appointed to his post last December, when the Head Start program had received $10.4 million of $11.1 million in Federal funds already allocated.

"I was extremely reluctant to urge an expansion of the program until I knew what it was all about," Mr. Ginsberg said "I had heard about some difficulties in the Head Start program, and it struck me that the best thing I could do was to get a full-fledged evaluation from National Head Start."

EVALUATION DUE SOON

Mr. Ginsberg discussed the problem with Sargent Shriver, the then director of the Office of Economic Opportunity, and Jule M. Sugarman, director of the national program. The evaluation is expected next week, Mr. Ginsberg said.

The situation came to light this week in a copyrighted article in the West Side News-Manhattan Tribune. The article quoted Mr. Ginsberg as having said:

"We deliberately allowed the money to be returned to the Federal Government. I was so concerned over the quality of our Head Start operations in the city that I asked for a Federal review of the program.

"In light of conditions like that, I wasn't going to spend $700,000 when I wasn't sure about the quality of the program on which we had already spent $10.4 million. If I had it to do all over again, I would make the same decision."

PROGRAM SERVES 4,700

The $10.4 million, year-round Head Start program serves 4,700 children from 3 to 5 years old in 110 centers maintained by 51 local agencies under contract to the Community Development Agency of the Human Resources Administration.

The summer Head Start program has 21,440 children at a cost of $2.1 million.

The co-publishers of the West Side News-Manhattan Tribune are William Haddad, former Inspector General of the Office of Economic Opportunity, and Roy Innis, acting director of the Congress of Racial Equality. The weekly newspaper said in an editorial:

"It is small wonder why the nation is so aroused over the poverty program. How can a nation justify spending money to solve the problems of poverty, when a $10 million children's program is in such bad shape that one of the most able and courageous men in city government would rather return the money to the Government than to spend it on a needed program?"

The program brings the children into classrooms, settlement houses and other facilities, and exposes them to organized activities. They sing, play games, model clay, take trips to City Hall, factories, farms and zoos. They are given medical and dental examinations, and each day receive a meal, which for some is the only nutritious meal they get.

Mr. DOMINICK. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Says Headstart Eligibility Too Stiff," which was published in the Fort Collins Coloradoan on Thursday, July 11, 1968. In this article the project director reported that in some families both parents are working. He said:

They are really making an effort to get out of the poverty circle.

However, he added:

The income of the family then is above the level of eligibility for Headstart.

He also points out the problems that are encountered when Headstart is operated under the poverty program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAYS HEADSTART ELIGIBILITY TOO STIFF

Guidelines for eligibility must be relaxed to make Head Start available to more children, according to Lawrence Heglund, project director for Poudre R–1.

Heglund told the Parents Advisory Committee July 10 that 132 children are enrolled in the local program which is 18 less than the number for whom the program was planned. He said a "strenuous recruiting program" had been conducted in the target areas prior to registration for the classes.

Heglund told the advisory group, "If the guidelines were relaxed, I could put more children into the program." He was referring to the OEO Poverty Guidelines for 1968 which establish an index of total family income to be used in determining eligibility of children for the program.

The project director reported that in some families both parents are working. "They are really making an effort to get out of the poverty cycle," Heglund said. However, he added, the income of the family then is above the level of eligibility for Head Start.

Heglund speculated that the local program might be required to refund any unused funds. He said he had heard that such cities as Omaha and Kansas City were "crying for more money." There is some feeling, he said, that unused funds in one area should be diverted to other areas of need.

Although the enrollment is less than expected, Heglund reported the attendance is "running 90–95 per cent daily."

Members of the Parents Advisory Council representing Putnam School are Mrs. Bernie Lucero of 224 North Hollywood Street; Mrs. Bernie Mascarenz of 316 Willow Street and Mrs. Victor Bueno of 412 Pine Street. Representing the Laporte Avenue School are Mrs. Bonnie Solano of 818 Sycamore, Mr. and Mrs. Marcos Jimenez of 427 North Meldrum Street and Mrs. Julie Miranda of 323 North Howes Street.

Members of the Citizens Advisory Group which works with the parents' group are Dr. Lee Thomas, chairman; Mrs. Lori Bash, Mrs. Sarah Bennett and Robert Rudolph.

Mr. DOMINICK. Mr. President, I shall be very brief. The Senator from Pennsylvania said he does not understand the amendment. It is difficult for me to believe that he does not understand the amendment because he is a very intelligent person.

In order to clarify the amendment for him and other Senators, I have placed on the desk of each Senator an explanation of what the amendment would do. The Senator from Pennsylvania says there are 30 changes. Mr. President, 21 of those were identical—to change the term "Commissioner" to the term "Secretary"—and as I noted, those have been deleted. The balance amounts to two or three substantive changes and then make conforming changes in other sections. I do not think the Senator's statement is anything more than a dialog and an attempt to try to confuse people.

I say once again that the amendment would transfer Headstart from the Office of Economic Opportunity so that its administration could be taken on by the Office of Education, which is taking care of all of the other educational programs. In the higher education bill which we passed on Monday, we transferred the Upward Bound program. The Headstart transfer is based on the same theory: Getting educational programs into the hands of the agency that deals with education. I do not believe that the proposal is terribly complicated.

Mr. PROUTY. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. I am happy to yield to the Senator from Vermont for a question.

Mr. PROUTY. Mr. President, I wish to ask the Senator if his amendment would in any way prohibit grants to local school agencies, community action agencies, or other nonprofit organizations?

Mr. DOMINICK. It would in no way so inhibit them. In the modified amendment we specifically authorize this type of flexibility.

Mr. PROUTY. They would be entitled to the same treatment they have been receiving under the OEO?

Mr. DOMINICK. The Senator is correct. I wish to point out that in the so-called arguments against the transfer, a copy of which has been placed on the desk of each Senator by the Senator from Pennsylvania, arguments No. 3, 4, and 5 are not applicable to the modified amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MORSE. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MORSE. Mr. President, I wish to point out how important I think it is that we continue to bring our educational programs under the Department of Health, Education, and Welfare. We have already transferred from the Office of Economic Opportunity the responsibility for administering the work study program, an education program. We have already transferred from the OEO the adult basic education program. In those transfers, we recognized that there was a greater interest in the jurisdiction of the subject matter in the Department of Health, Education, and Welfare. As I said a few moments ago, in the higher education bill we have transferred the Upward Bound program to take effect in 1971. I pointed out it should not have gone beyond 1970, because the authorization does not extend until 1971.

There has been talk in opposition to the amendment as though the transfer to the Department of Health, Education, and Welfare is going to produce a hiatus and that the program is going to suffer. The amendment of the Senator from Colorado would not propose that the transfer be effective in 1969. The amendment proposes that the transfer be effective in 1970. There is 1 year for the Department of Health, Education, and Welfare to make the plans for the change.

There has been talk about personnel. We can take judicial notice of what is going to happen to the extent that they need additional personnel in the Department of Health, Education, and Welfare. If there is a need, there is no doubt with respect to what the bureaucratic practice is: Seek to transfer some personnel slots along with the program. I believe they will not have to transfer any personnel because we have highly competent personnel in the Office of Education and the Department of Health, Education, and Welfare to do the job.

The important thing is to remember that this is a trend that the Senate and the Congress have been following with regard to education programs. This is the time to add Head Start to that trend, and it would give the Department 1 year to make the necessary adjustments to take care of the program. For the next year, it will operate where it is.

Mr. President, I urge the adoption of the amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me for 2 minutes?

Mr. MORSE. I yield 2 minutes to the Senator from New York on the bill.

Mr. JAVITS. Mr. President, I wish to ask the Senator from Colorado a question.

I am puzzled about a change in language which occurred from the original text to this morning's changes. The change occurs on page 3, line 15, of the principal amendment. It is stated at line 15: "to make grants to community action boards or in any community where

there is no qualified community action board," then directly.

The new change, as I see it, would set that language aside and allow grants to be made to community action agencies, and not whether there is or is not one, and the other agencies.

What we are a little concerned about, in that famous case of CDGM in Mississippi, the fund was given to the State educational agency in Mississippi. They might be delighted to go through the local educational agency and forget about the community action agency.

What does the Senator have in mind in that respect?

Mr. DOMINICK. One of the reasons we changed the language was to make it more flexible. It is my intent that the community action agency, the public or private nonprofit agency or organization, and the local educational agency be eligible.

Mr. JAVITS. But the Senator did not wish to run afoul of the situation where, for reasons we are all well aware of, racial matters and so forth, some community action agencies now in the program would be bypassed.

Mr. DOMINICK. Not for a second. What I am trying to do is provide enough flexibility so that the operation could be left with the qualified agency, of whatever type, where it is nonoperating.

Mr. JAVITS. Is it the feeling of the Senator that if the amendment is agreed to and if it is unclear, we can work it out in conference?

Mr. DOMINICK. Absolutely. I do not think it is unclear, but this is certainly agreeable to me.

Mr. JAVITS. I posed the question because I wanted to show the situation.

Mr. CLARK. Mr. President, I yield myself 2 minutes.

I want the record to show that the proponents of the amendment have had twice as much time as the opponents. I have 8 minutes remaining. I am not going to ask for time on the bill.

Mr. MORSE. I can give the Senator time on the bill.

Mr. CLARK. I do not ask for time on the bill.

I would like to point out in reply to what my good friend from Oregon said, that the transfers which were made from the OEO to the Office of Education or, indeed, to the Department of Labor last year, were all made after careful consideration by the Subcommittee on Employment, Manpower and Poverty. We took lots of testimony and heard witnesses for and against. We came to the considered conclusion that these programs that the Senator from Oregon has mentioned should not be transferred, we were objective about it; and when our friends in the House wanted to take the transfer in conference, we went along with them. But the Upward Bound transfer, as we know, is pretty ineffective, because it does not take hold until after the education bill—which we passed last week—has expired, so that the transfer is ineffective. That is why I did not fight it any harder than I did.

The other transfers, as I say, were worked out carefully. This transfer—and I say it again, as I started—is a shotgun marriage between a reluctant bride and an angry husband-to-be. Neither party wants to get married. The parents of both do not want the marriage to take place. The friends of both also do not want the marriage to take place.

I have read into the RECORD the opposition of OEO, the Department of Health, Education, and Welfare, the National Council of Churches, the AFL–CIO, and the Industrial Union Division. There is no civic organization and no administration organization that wants this transferred. It is just my dear friends—and they are my dear friends—the Senator from California and the Senator from Colorado.

Mr. President, I reserve the remainder of my time. As a matter of fact, I am prepared to yield back the remainder of my time.

Mr. MORSE. Mr. President, I yield myself 1 minute, after that statement.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 minute.

Mr. MORSE. Mr. President, the State school authorities are for it and other educators are for it. We have pointed out time and again in the past the need to bring all the educational programs under one jurisdiction, and that is the job of Congress and not the administration. Of course, the administration would not like to see any interference with this format, but we have the responsibility, legislatively. I think the education programs should be administered and we want to put them in the Office of Education, as we did with the other programs.

I have already said we did it with the work study program, the adult education program, and we just did it in the higher education bill with the Upward Bound matter. But this does not take effect until fiscal 1971, which gives us plenty of time for study.

Mr. CLARK. Mr. President, I yield myfor 1 additional minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 additional minute.

Mr. CLARK. Of course, the education lobby is for this transfer. Why would it not be? It would put the Headstart under their control. They would like to run the program just as they would like to run all the rest of the programs which are not under their jurisdiction now, whether they are education programs or not; but the people who administer the programs, those who have the interest of the people at heart, the people who do not earn their daily bread trying to get into a program for youngsters, which is not really an education program at all but a child development program, are all against the amendment. I reserve the remainder of my time.

Mr. MORSE. Mr. President, I yield myself 30 seconds for that non sequitur.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 30 seconds.

Mr. MORSE. The Department of Health, Education, and Welfare and the OEO are not being controlled by lobbyists. The Senator from Pennsylvania speaks about certain organizations that are against it. I have spoken about certain organizations for it. I want to say that neither Government agencies is controlled by lobbies that may be for or against this transfer.

The question before us is whether we believe, in the interest of efficient administration, that we should bring all education programs under the Office of Education. I think that is obviously what we should do. That is why I support the amendment.

Mr. CLARK. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 minute.

Mr. CLARK. Mr. President, in all good humor, I would disagree with my very good friend from Oregon. The question is whether we want to have this a shotgun wedding that no one wants, or whether we are interested in transferring from one agency to another without any hearings, without any testimony, without any discussion in committee an amendment that has had 30 different changes made in it today, and that no one has seen and no one can understand.

Is that the way the greatest deliberative body in the world wants to legislate?

Mr. LAUSCHE. Mr. President, will the Senator from Colorado yield me 2 minutes?

Mr. DOMINICK. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes remain to the Senator from Colorado.

Mr. DOMINICK. I yield myself 2 minutes and shall be happy to answer questions.

Mr. LAUSCHE. Mr. President, I have listened to the exchange between the Senator from Oregon and the Senator from Pennsylvania and I find myself, at this point, in a balance of thinking. Neither one has convinced me of what should be done. Therefore, I approach my thinking on the basis of what I should do in a situation where the scales of evidence are equal.

I have to decide whether this program will be operated by the Department of Health, Education, and Welfare or by the OEO.

Within the past 2 or 3 weeks, I have read about the operations of the OEO in Chicago, Ill., which spent $1 million in a program which was under the guidance and control of thugs, thieves, hippies, drug addicts—the worst elements of the community there.

When such a condition is allowed to exist and goes unobserved by the heads of agencies, there is something radically wrong.

Now, then, with my thinking supposedly in balance, what shall I do?

Shall I resolve the doubt in favor of giving it to HEW, or shall I resolve the doubt in giving it to OEO?

With the past performance of the OEO scandalous, shameful, and indefensible, I will vote for the transfer and I will feel content that I am right.

Mr. DOMINICK. Mr. President, we have support from the Senator from Ohio, the Senator from California, the Senator from Mississippi, the Senator from Vermont, the Senator from Oregon,

and my State of Colorado. It would therefore seem to me that with the kind of support from so many diverse areas of the country which has been exhibited here today, it is prefectly proper that we should make this transfer.

Mr. CLARK. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 minute.

Mr. CLARK. I yield myself 1 minute only to point out to the Senate that my good friend from Ohio [Mr. LAUSCHE] has really not been fair to the record of the OEO. I think it is almost generally agreed across the country that the Headstart program has been an enormous success everywhere, almost without exception.

The Senator's reference to the Chicago incident and the OEO has nothing whatever to do with the Headstart program.

Mr. President, I am prepared now to yield back the remainder of my time.

Mr. LAUSCHE. I concur with the Senator from Pennsylvania that the Headstart program is a good program.

The PRESIDING OFFICER. All time on the amendment, as modified, has now expired.

The question is on agreeing to the amendment, as modified, of the Senator from Colorado. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING] and the Senator from Nevada [Mr. BIBLE] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Michigan [Mr. GRIFFIN] is necessarily absent and, if present and voting, would vote "yea."

The result was announced—yeas 60, nays 29, as follows:

[No. 212 Leg.]

YEAS—60

Aiken	Fong	Monroney
Allott	Hansen	Montoya
Anderson	Hartke	Morse
Baker	Hayden	Morton
Bayh	Hickenlooper	Mundt
Bennett	Hill	Murphy
Boggs	Holland	Pearson
Brewster	Hollings	Prouty
Byrd, Va.	Hruska	Randolph
Byrd, W. Va.	Jackson	Russell
Carlson	Jordan, N.C.	Scott
Cooper	Jordan, Idaho	Smith
Cotton	Kuchel	Sparkman
Curtis	Lausche	Stennis
Dirksen	Long, La.	Symington
Dominick	Magnuson	Talmadge
Eastland	Mansfield	Thurmond
Ellender	McClellan	Tower
Ervin	McIntyre	Williams, Del.
Fannin	Miller	Young, N. Dak.

NAYS—29

Brooke	Hatfield	Pell
Burdick	Inouye	Percy
Cannon	Javits	Proxmire
Case	McGee	Ribicoff
Church	Metcalf	Spong
Clark	Mondale	Tydings
Dodd	Moss	Williams, N.J.
Gore	Muskie	Yarborough
Harris	Nelson	Young, Ohio
Hart	Pastore	

NOT VOTING—10

Bartlett	Gruening	McGovern
Bible	Kennedy	Smathers
Fulbright	Long, Mo.	
Griffin	McCarthy	

So the modified amendment offered by Mr. DOMINICK for himself and Mr. MURPHY was agreed to.

Mr. MORSE. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. DOMINICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, will the Senator yield me one-half minute on the bill?

Mr. MORSE. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon or this evening, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be officially excused from further attendance on the Senate this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOCATIONAL EDUCATION AMENDMENTS OF 1968

The Senate resumed the consideration of the bill (H.R. 18366) to amend the Vocational Education Act of 1963, and for other purposes.

AMENDMENT NO. 885

Mr. JAVITS. Mr. President, I call up my amendment No. 885, in behalf of myself, Mr. BROOKE, Mr. CLARK, Mr. COOPER, and Mr. HART, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 885) is as follows:

AMENDMENT No. 885

At the end of the bill, insert the following new section:

"AMENDMENTS TO THE NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACTS

"SEC. 208. (a) The National School Lunch Act (42 U.S.C. 1752) is amended by adding at the end of the Act the following new section:

"'TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOL AND IN OTHER GROUP ACTIVITIES OUTSIDE OF SCHOOL

"'SEC. 14. (a) Nothwithstanding any other provision of law, the Secretary of Agriculture is authorized to use during the fiscal years 1969, 1970, and 1971 not to exceed $100,000,000 per annum in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to formulate and carry out a program to improve the nutritional status of needy children in group situations away from home excluding situations where children are maintained in residence.

"'(b)(1) Of the funds to be used for the purposes of subsection (a) for any fiscal year, the Secretary shall reserve 3 per centum for apportionment to Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.

"'(2) From the remainder of the funds available for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remaining funds as (1) the number of children in that State aged three to seventeen, inclusive, in families with incomes of less than $3,000 per annum, and (2) the number of children in that State aged three to seventeen, inclusive, in families receiving an annual income in excess of $3,000 per annum from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, bears to the total number of such children in all the States. For the purposes of this section, the Secretary shall determine the number of children aged three to seventeen, inclusive, of families having an annual income of less than $3,000 on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a State are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary shall determine from data which shall be supplied by the Secretary of Health, Education, and Welfare the number of children of such ages from families receiving an annual income in excess of $3,000 per annum from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, on the basis of the latest calendar or fiscal year data, whichever is later. For the purposes of this paragraph, the term 'State' does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"'(c) State agencies, or the Secretary as appropriate, shall use the funds to provide meals to children whose parents or guardians do not have the financial ability to provide for the adequate nutrition of their children and to children determined by local officials as in need of improved nutrition. The funds may be used to finance such children's participation in an eligible nonprofit food service; to assist in financing the purchase of equipment needed to operate such programs, and not to exceed an amount equal to 2 per centum of the total funds used under subsection (a) in any fiscal year may be used in

such fiscal year to defray part of the administrative cost of the Department of Agriculture and State agencies in carrying out this section.

"'(d) The authority contained in this section is intended to supplement the authority and funds available for use under other sections of this Act and the Child Nutrition Act, as amended.

"'(e) The Secretary of Agriculture shall issue regulations implementing the operation of this program including guidelines for the determination of the eligibility of children for free and reduced-price meals.

"'(f) The withholding of funds for and disbursement to nonprofit private schools will be effected in accordance with section 10 of the National School Lunch Act, as amended, exclusive of the apportionment ratio and the matching provisions thereof.

"'(g) The withholding of funds and disbursement to eligible service institutions will be effected in accordance with section 13(3) (d).'

"(b)(1) Section 9 of the National School Lunch Act (42 U.S.C. 1759) is amended by inserting after the second sentence a new sentence, "Such determinations shall be made by local school authorities in accordance with a publicly announced policy and plan applied equitably to all families in the school attendance area on the basis of criteria which as a minimum shall include factors for the level of family income, including welfare grants, the numbers in the family unit, and the number of children attending school.".

"(2) Section 9 of such Act is further amended by inserting after the former third sentence the following: "Overt identification of such child or children in the lunchroom or classroom by means such as special tokens or tickets or by announced or published lists of names is expressly prohibited".

"(3) Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) and section 13(f) of the National School Lunch Act as amended by Public Law 90-302, section 3, are amended by inserting in each of those sections, respectively, wording identical with the amendments to section 9 of the latter Act provided by the above sections 3 (a) and (b) of this Act.

"(c) (1) Section 3 of the National School Lunch Act (42 U.S.C. 1752) is amended by inserting at the end thereof: 'Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States.'

"(2) Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by inserting immediately before the last sentence of the section the following: 'For the fiscal year beginning July 1, 1969, and each succeeding fiscal year, the Secretary's determination of what funds from sources within a State may be regarded as from sources within a State for purposes of matching shall be limited by the availability of State tax revenues for use for program purposes in the local school attendance units. For each of the first two such fiscal years such State appropriated funds must equal at least 4 per centum of the matching requirements; for each year of the second two-year period at least 6 per centum of the matching requirements; for each year of the third two-year period, at least 8 per centum of the matching requirement; and for each subsequent fiscal year at least 10 per centum of matching requirements must be met from such State appropriated funds.'

"(3) Section 12(d)(5) of such Act is amended by striking the words 'preceding fiscal year' and inserting in lieu thereof the following: 'latest completed program year immediately prior to the fiscal year in which the Federal appropriation is requested'.

"(d)(1) Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by inserting in the first sentence after the comma following the phrase 'his administrative expenses', the following: 'including the operating expenses for the Child Nutrition Act of 1966 other than for section 3 of that Act'.

"(2) Section 6 of such Act is further amended by inserting in the first sentence after the comma following the phrase 'pursuant to section 11', the following: 'and less not to exceed 1 per centum of the funds appropriated for carrying out the programs under this Act and the provision of the Child Nutrition Act of 1966 other than section 3, hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means of nutritional training and education for workers, cooperators and participants in these programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966'.

"(3) Section 12(c) of the National School Lunch Act (42 U.S.C. 1760) is amended by striking the period at the end of the subsection and inserting ', except as provided in section 6 of this Act'.

"(4) Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780) is amended by striking the period at the end of the subsection and inserting ', except as provided in section 6 of the National School Lunch Act'.

"(e)(1) Section 12(d)(1) of the National School Lunch Act (42 U.S.C. 1760) is amended by striking the word 'or' that precedes the term 'American Samoa' and by adding at the end of the sentence the following: 'or the Trust Territory of the Pacific Islands'.

"(2) Section 15(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended by striking the word 'or' that precedes the term 'American Samoa' and by adding at the end of the sentence the following: 'or the Trust Territory of the Pacific Islands'.

"(3) The sections of such National School Lunch Act and Child Nutrition Act of 1966, other than the sections amended by subsections (a) and (b) of this section and other than the proviso in section 11(b) and in section 4 of the National School Lunch Act, are amended by inserting the phrase 'and the Trust Territory of the Pacific Islands' after the term 'American Samoa' wherever that terms appears in such Acts."

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

I would beg my colleagues in the Senate to listen to this matter, because it is something which will be worked out here on the Senate floor, I hope, and Senators who wish to act on it should hear about it before acting.

When we left this matter on Monday, there was pending an amendment which was displaced by Senator DOMINICK's amendment, and which is now again reinstated as the business before the Senate.

Mr. President, I am not vain about it, but I wish we could have order, because it will be impossible to follow this matter unless we do.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senator from New York may proceed.

Mr. JAVITS. Mr. President, as I have stated, we now have an amendment pending which calls for $100 million a year for 3 years for the school lunch program, for fiscal years 1969, 1970, and 1971, to be made available out of section 32 funds, which are the funds resulting from a 30-percent allocation of all import duties received by the United States. There has been a longstanding and traditional allocation of such funds for the purpose of encouraging both food production and food consumption. I shall not bother the Senate quite yet, though we may have to get into it, with the details of that.

The reason for my offering the amendment arose in two House bills sponsored by Representative PERKINS, one of which did exactly what this amendment would do, that is, provide $300 million, $100 million a year for 3 years out of section 32 funds, and the other which made some procedural changes in the school lunch program, which apparently are satisfactory to everybody, including a requirement for certain State participation, which would rise by roughly 2 percent a year over a period of 5 years to a total of 10 percent.

Those two bills had been referred to the Committee on Agriculture and Forestry. When we discussed this matter on Monday, there was objection from that committee, through the Senator from Louisiana [Mr. ELLENDER] and the Senator from Florida [Mr. HOLLAND] with respect to the consideration of this amendment. They felt the Committee on Agriculture and Forestry should have the first opportunity to work it out.

It was then pointed out that that jurisdiction had been ceded to the Committee on Agriculture and Forestry, though the Reorganization Act provides otherwise, but that for purposes of this session we were not arguing that question, but that we insisted on pressing our amendment because it properly belonged in a bill relating to schools, and this was a way to get action at the end of the session.

A conference then took place with regard to some effort to dispose of the matter, in which representatives of the Committee on Agriculture as well as representatives of our Committee on Labor and Public Welfare participated.

That conference was for the purpose of agreeing, if we could, upon some modification of this amendment which would be acceptable all around, if that could be accomplished, in order to pass the bill Monday night.

That conference broke up upon an offer that I had made—I say this to the Senate without violating any confidences, because I did it and I am disclosing it, and I do not intend to disclose what anyone else did, because that would be disclosing confidences—but I made an offer, in the effort to get the matter settled, that if it were possible to arrive at a compromise in this bill of $50 million a year for each of 2 years, plus the provision that this money could be paid out of section 32 funds or out of general appropriations, depending upon the Appropriations Act, I would accept that for myself. I had four colleagues who were also parties to the amendment, but for myself I said I would accept that, and agree that the amendment be passed in that way and taken to conference.

That was unacceptable to the representatives of the Committee on Agriculture and Forestry, who finally determined that they would rather see what the Agriculture Committee would do with it this morning.

So when the bill went over, I did not

feel that I was bound by that offer on my part, and I do not think I was, in terms of commitment or legally, though I disclose it freely and frankly to the Senate, as it is my duty to do; and I felt that I could come in this morning and fight for this amendment unhindered by any commitment whatever.

The Committee on Agriculture and Forestry has acted this morning and, in substance, adopted the procedural aspects of Representative PERKINS' bill, and adopted the money aspects of Congressman PERKINS' other bill to the extent exactly as had been my offer on Monday, of $50 million a year for 2 years, to come out of general revenues or out of section 32 funds. But, of course, they adopted that in their own bill, which would not have the same conferees as the pending bill.

I have given this matter very considerable thought. As I say, I do not feel bound by any commitment, but I do feel that I owe the utmost respect and regard to the views of the Committee on Agriculture and Forestry; and I believe the Senator from Oregon [Mr. MORSE] would share my views on that point.

So I have given some thought to how to handle this situation. It is not an easy one. No one wishes to offend our fellow Senators in any way; and it is very desirable, it seems to me, as there does seem to be a very considerable meeting of the minds on this whole question, to try to come to some resolution of it.

It must be remembered, with respect to anything I say now as to what I think is a way out of this situation for me and for the Senate, that there is now in conference the agricultural appropriations bill. Whether or not any money can be added on to that bill is a question which will be up to the House of Representatives and the Senate, because it may involve some question of reporting an amendment in disagreement on some procedural propositions. But I think it is fair to say, for the sake of this discussion, that it is possible to increase the provision for the school lunch program in that appropriation bill; and whatever we do here, whether we do it on my amendment or whether we do it on the actions of the Committee on Agriculture and Forestry, is bound to have an effect upon the conferees on the appropriation bill. I do not happen to be one of them, though I am a member of the Appropriations Committee, but I know it will have an effect.

Therefore, my own consideration of the matter must be limited to the question, What action can the Senate take to show its disposition, which will help both the school lunch program and the conferees on the agricultural appropriation? Because that is where we are going to get money promptly. The agricultural appropriation for 1969 is in conference now.

I did make the offer that I did on Monday, and I say that very frankly to the Senate. Upon thinking it over very carefully, I find myself unable, in all conscience, to simply go along with accepting that as part of Agriculture Committee bills, and I would like very much to hear the views of the Senator from Louisiana [Mr. ELLENDER], who sat in the proceeding of the Committee on Agriculture and Forestry this morning as its chairman.

I would like to—and I am not doing it, but only saying what I think is a fair way to try to dispose of this issue, in view of the fact that it is going to be in conference—I would like, in deference to what the Committee on Agriculture and Forestry has done, to consider the modification of my amendment to reduce the first 2 years to $50 million each, thus meeting their views.

Retaining $100 million for the third year gives the hope that there can be a material improvement in the program, which is very urgently needed. In retaining the provisions of my amendment with relation to section 32 funds, I again point out that my amendment will be in conference and that it can be dealt with in conference, because there is no corollary provision in the other body. Therefore, it can be cut down, modified, or changed in any way.

I would like to have the view of the Committee on Agriculture and Forestry on the proposal which I now make openly in the Senate. I point out one of the facts that I think needs fairly to be mentioned, and that is that the Secretary of Agriculture has given us a letter, addressed to the Senator from Louisiana, but I think it is fair to say that it is intended for all of us.

In this letter, the Secretary of Agriculture uses the following key phrase:

> The Department would be able to effectively and efficiently expand the Child Nutrition programs beyond the present level approved by the Senate by $50 million in fiscal year 1969.

The Secretary then proceeds to bear that out with certain factual details which any Senator is welcome to read. He divides it in this manner. He says we could spend $30 million more than voted by the Senate on the appropriation bill for free and reduced price lunches to needy children under section 11 of the National School Lunch Act. He says $8 million could be used for the establishment of facilities, cooking and other facilities, in schools, some 6,000 of which do not have them today. That is $38 million.

The Secretary of Agriculture estimates $10 million for the school breakfast program which he says can be efficiently expanded to that extent.

It is from that factual presentation that I find I must reduce the amount in my amendment to $50 million for the fiscal year.

As to the $100 million for the 3d year, I feel that this is a way in which the Senate can express itself as feeling that the program should be expanded and that it, the Senate, is giving its vote—if the amendment is agreed to by a majority vote—to the proposition which will be, I think, an influential factor in further activity by Representative PERKINS and others who have always been leaders in this program.

In trying to expand the program further, I feel that we should stand by the section 32 funds because, again, I have negotiated as a member of conference committees with others in the Appropriations Committee. And it has been a very disheartening experience. I feel that it will be very tough to get any money out of the agricultural bill. I feel that the only way that the other conferees can be moved is if we have something on the books for which we have voted to assure that the money will be available. I think then that their hearts may yield to some sense of reason and consideration for these children.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. I will yield in a minute.

I hope very much that I will have the advice of my chairman and the chairman of the Committee on Agriculture and Forestry.

It is my deep resolve that I should proceed in this matter in the utmost good faith. I hope that we may in this discussion clarify the situation and arrive at a constructive solution for the children who will be involved if no prior authorization is provided. I gladly yield that to my chairman or to anyone who may wish to assume it. However, I do hope we can arrive at a definitive result.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Oregon.

Mr. HATFIELD. Mr. President, as a member of the Committee on Agriculture and Forestry which considered the proposal this morning involving the problem of feeding hungry children in schools, I shall ask the distinguished Senator from New York a couple of questions for clarification.

As I understood, there had been an original proposal on the House side, which the Senator from New York supported, for appropriating $100 million for the school lunch program.

Mr. JAVITS. The Senator is correct. That was for $100 million a year for 3 years.

Mr. HATFIELD. As I understand it, this is based upon a formula worked out as a result of the evidence from the Department of Agriculture that it costs approximately $22 a year to feed a hungry child in our schools, and the estimate that there are 4.5 million such children who are not now receiving school lunches. That would figure approximately $100 million.

Mr. JAVITS. It is $88 million.

Mr. HATFIELD. It is $88 million, plus the amount for the purchase of equipment and so forth.

Mr. JAVITS. The Senator is correct.

Mr. HATFIELD. Mr. President, are we at this point discussing an attempt to iron out an agreement, based upon the availability of money or budgetary procedures, or are we on a criteria of meeting the needs of hungry children?

I ask the question because in this morning's meeting of the Committee on Agriculture and Forestry, I was informed when I posed certain questions on this that the Secretary of Agriculture had indicated in a letter to our chairman that he, the Secretary, could not spend more than $50 million. The Senator has referred to that already.

I was informed, second, that we could not adequately spend it, not because of

the inadequacy of the machinery of the Department of Agriculture, but because of the failure of local school districts and States put themselves in a position to effectively use this kind of contribution and help from the Federal Government.

Mr. JAVITS. The Senator is correct. It is fair to say that it is the judgment of the Secretary of Agriculture, as stated in his letter, that only $50 million could be effectively and efficiently spent in fiscal year 1969. He lays that also on the following facts which I will read to the Senate:

These estimates reflect the fact that the new school year will begin in little more than a month. State school lunch agencies will have to gear up in that short period to handle an increase in program activity. Local school districts will need to make necessary arrangements to initiate new programs or to expand existing ones. It will be well into the school year, probably December, before the expanded program as a practical matter can be put into full operation.

It seems to me, therefore, that the need is as the Senator has stated. The justification is, in my judgment, that we would assist Representative PERKINS who has led the House into taking the action it took. The figures the Senator has given are correct. However, we are now faced with something we always face in the Appropriations Committee in reality, so that there are situations where the need can be very great, but we can just feed so much down the pipeline within a given time. Apparently, from the letter of the Secretary of Agriculture, we must accept his evaluation that all we can efficiently and effectively feed into the pipeline for 1969 is $50 million.

Mr. HATFIELD. Mr. President, I understand the proposal is now to provide $50 million for this year and $50 million for the second year and $100 million for the third year.

Mr. JAVITS. The Senator is correct.

Mr. HATFIELD. I assume that the proposal for $100 million for the third year is based on the assumption that the school districts will have geared up so as to be able effectively to use that amount of money.

Would the Senator comment on whether he feels it will be possible to provide the same local school districts—which are not now adequately geared up to utilize the money to feed the hungry children that are already in the school districts—with the $100 million for the second year. There would then be $50 million the first year, $100 million the second year, and $100 million in the third year.

Mr. JAVITS. Mr. President, it is my honest business judgment that it could be—and I emphasize that—$50 million, $75 million, and then $100 million. However, very frankly, I am embarrassed by the assumptions of the Committee on Agriculture and Forestry, whether justified or not.

We all live here together, and we all do many things together. In all decency and honesty, I must tell the Senator that I am taking the second year figure of $50 million only because of the desire for comity and accommodation with the Committee on Agriculture and Forestry, which made that finding this morning. I do not find that it assaults my conscience, in all frankness, but one could have gone to the $75 million figure just as well.

I hope the Senator from Oregon would go with me, in the hope of offering some proposal which will meet some widespread acceptance—we still have to get the money and go through conference, and so forth—that he would stay with me on accepting the figures of the Committee on Agriculture and Forestry for the first 2 years.

Mr. HATFIELD. One further comment: I would certainly be happy to join the Senator from New York in supporting any realistic program. However, I believe it should be clearly pointed out to the Senate today that we are dealing here with two issues. One item with which we are dealing is the problem of hungry children, and there are sufficient hungry children today to utilize $100 million of support from the Federal Government. The second item we must consider is that we are dealing with certain political and administrative machinery which is evidently the obstacle for us, in the Senate, to appropriate the full $100 million today.

Mr. JAVITS. The Senator is correct.

Mr. HATFIELD. I believe we should do everything to put the pressure on these local districts as well as to assure these local districts that there is adequate funding for such programs when they might want to go ahead and commit themselves, because some of them have been fearful to commit themselves before they knew that there was adequate funding. I believe we must get that word across to them, to encourage them to go ahead and plan their own action.

Mr. JAVITS. I agree with the Senator completely. That is why I said that an optimum program here would be $50 million, $75 million, and $100 million.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DOMINICK. I have one question: The $50 million, $50 million, and $110 million that the Senator is talking about are section 32 funds or section 32 funds plus appropriations if needed?

Mr. JAVITS. Section 32 funds is the way my amendment would read. But the Committee on Agriculture and Forestry has come in with a proposal, and they have liberty to substitute their ideas for mine. They have come in with a proposal for $50 million each year, to come out of appropriated or section 32 funds as the Appropriation Act would provide.

Mr. DOMINICK. Under the proposal of the Senator from New York, this is an authorization, not an appropriation?

Mr. JAVITS. That is correct. Except that it is allowed to be drawn out of section 32 funds. Then it would be thrown into the administrative arena, because the Secretary of Agriculture is then authorized to use these funds without appropriations action, provided he can pass muster with the Budget Bureau and the internal business which goes on in the executive department.

Mr. DOMINICK. What would happen if there were not enough section 32 funds?

Mr. JAVITS. The provision reads "not to exceed" or "up to."

Mr. DOMINICK. I thank the Senator.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MURPHY. Do I correctly understand that it is the best judgment of the distinguished Senator from New York that, under the present circumstances, this is the best, most practical forward step that can be made in this field?

Mr. JAVITS. I believe so. It is really my honest judgment, and it is said with no joy, because I would want very much to have the provision as we had it. We must face the fact that there are many points of view among Members of the Senate. I am simply trying to take account of that in order to produce a result. I believe that is what we all desire.

Mr. MURPHY. Mr. President, I compliment the Senator from New York on his usual efficiency and the most efficient manner in which he has approached this matter in order to bring it to the attention of the Committee on Agriculture and Forestry and to try to get all interested areas of Government to understand this problem.

I recall a year ago, when the poverty subcommittee first ran into the problem. It was in Mississippi we first ran across the problem. Since then, we have been trying to come to grips with the problem. I have watched the progress, slow though it has been over the year. I believe it would be most helpful and most gratifying if we could arrive at least at this step in taking care of a need that exists, which will not go away unless we do something about it in a concrete, feasible, factual manner.

I compliment the Senator.

Mr. JAVITS. I thank the distinguished Senator.

The PRESIDING OFFICER. Will the Senator from New York state is modification?

Mr. JAVITS. I have not yet modified my amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does the Senator from Louisiana control the time on this amendment?

The PRESIDING OFFICER. The Senator from Oregon controls the time.

Mr. MORSE. I yield such time to the Senator from Louisiana as he requires.

Mr. ELLENDER. Mr. President, last Monday, we had a conference that lasted approximately 15 or 20 minutes, and it was my desire to try to effectuate some kind of compromise on the so-called Javits amendment.

I knew in advance that the Secretary of Agriculture could not spend during fiscal year 1969 more than $50 million, and I suggested that the entire matter before the Senate be referred to the Committee on Agriculture and Forestry. The reason for that was to obtain from the Secretary his views as to how much money he could use during fiscal 1969.

The Javits amendment provides for an authorization for the use of $100 million of section 32 funds each fiscal year for 3 years.

The bill that I reported this after-

noon, S. 3848, authorizes $50 million for the current fiscal year and $50 million for next year.

I try to be a realist. After learning that the Secretary of Agriculture could effectively use only $50 million, I took the matter up with the Senator from Florida [Mr. HOLLAND]. We are both on the conference committee on the agricultural appropriation bill.

I told Senator JAVITS and others that I felt that the conferees could provide the $50 million without having to go through the regular legislative process—that is, requiring the agency to go before the committees and make a case. I thought it would be a better plan for us to accept the $50 million through the conference we are now having rather than go through the regular legislative processes. One part of the agreement we had, as I understood it, was not mentioned. Whatever action was taken by the Committee on Agriculture and Forestry by way of a bill would be presented to the Senate. That is, the bill reported by the committee would go to the calendar and remain there. Meanwhile, the substance of what the Agriculture Committee proposed would be presented to the Senate in lieu of the Javits amendment—in other words, as a modification of the Javits amendment. And it was my view that if we could obtain from the Committee on Agriculture and Forestry the bill I proposed and which we did obtain, which actually adopts the two bills, H.R. 17872 and H.R. 17873, that came from the House and were referred to the committee, we could use that as a lever in order to get the conferees to agree to $50 million.

If the conferees were successful in obtaining the $50 million for fiscal 1969 in the appropriation bill, then whatever action might have been taken by the Senate today on the bill now before it would be deleted in conference. The provision proposed to be included in the pending bill would become unnecessary if the $50 million were made available through the conference that is now going on between the House of Representatives and the Senate. It is my considered judgment that if we proceed in that way we will obtain the $50 million within a matter of a few days, and I think that is a step in the right direction.

I do not want to go into all the figures that I submitted on Monday as to what the Congress is already doing and what the Department is already doing and has been authorized to do. For the fiscal year 1969 the Department of Agriculture will have for these programs $1,050,000,000. If the proposal that the Committee on Agriculture and Forestry has submitted is adopted, and if we can get the conferees on the House side to agree in conference to the $50 million, we will thereby add $50 million more to the $1,050,000,000 we now have.

It is my view that that procedure by which we obtain the money immediately is better than authorizing the use of section 32 funds, and trusting that other demands on that fund will not use up the fund and prevent its use for this purpose.

I feel confident from the information I obtained this morning that the House will probably agree to the $50 million add to the amount we already have in the appropriation bill.

I think that is a proper procedure and in the next Congress it is my hope that this entire program can be looked into and funds made available in order to take care of the children mentioned by the distinguished Senator from New York.

Mr. President, the great trouble has been that in many districts, particularly big States like New York and Pennsylvania, they did not take heed and they did not try to put into effect a school lunch program. Why they did not do so, I do not know, but in my opinion many of these children come from that area. It is my hope that the next Congress can look into the entire program and try to make possible the distribution or use of these funds so that the children who are really underfed and who lack food can be taken care of. I am very hopeful we will be able to do that and I am sure we can.

As far as I am concerned, and I am sure my good friend from Florida [Mr. HOLLAND] would agree, if we can put this through as I have suggested today, within the next few days we will have the $50 million, and that amount can be added to the moneys that have been provided heretofore. The bill I have just introduced will remain on the desk and we can take action later, if necessary; that is, if the conferees fail to provide the $50 million.

The Senator from Oregon [Mr. MORSE] was present at the conference and I am sure he will recall that if the amendment were modified according to the way I have just stated, and if the $50 million were provided, then the conferees on the bill that he is handling will strike from that bill the proposal we are now making.

Mr. MORSE. In order to maintain my impartiality, I yield myself such time on the bill as I require.

I would like to have the attention of the Senator from New York and the Senator from Louisiana, in particular, and also the attention of other Senators.

I happen to be the Senator who suggested to the majority leader that we try to get the group together in a conference in the cloakroom during a quorum call, and then, after the quorum call, during the transaction of other business, as we laid aside the pending business. This was suggested as an effort to resolve the differences that developed, because we were having, as some Senators may recall, quite a discussion on the floor of the Senate that was not in the best of keeping with the rules and decorum. That suggestion was agreed to.

It is only fair for me to cite my recollection of those who were at the conference: the distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Louisiana [Mr. ELLENDER]; Senator HOLLAND, Senator YOUNG of North Dakota, Senator AIKEN, the majority leader, Senator HART, Senator JAVITS, and myself.

Mr. HOLLAND. And Mr. CLARK of Pennsylvania.

Mr. MORSE. And the Senator from Pennsylvania [Mr. CLARK].

Mr. President, I want to say they are all men of good faith. They were meeting on a common objective of trying to resolve this very difficult parliamentary, procedural, and substantive problem that had developed on the floor of the Senate.

Men of good faith can come to different conclusions as to what transpired in a conference, just as witnesses to an incident can tesitfy differently as to what they observed and heard. I want to say that any difference in points of view any one of those persons in the conference may have as to what was offered, what was agreed to, or the terminal time limit, is no reflection at all on any member of that conference who has a different recollection as to my understanding or supposed understanding.

Mr. President, I say that in defense of every member of that conference.

Mr. President, the Senator from Washington, I believe, has a conference report. I yield to him for that purpose, without the time being counted against the time on the bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. JAVITS. Before the Senator yields, I wish to recall that we are bound by a 4 o'clock voting time.

Mr. JACKSON. I will need only 20 seconds.

Mr. MORSE. Very well.

The PRESIDING OFFICER. The Senator from Washington is recognized.

ESTABLISHMENT OF REDWOOD NATIONAL PARK, CALIF.

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2515.

The PRESIDING OFFICER (Mr. HOLLINGS in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 2515) to authorize the establishment of the Redwood National Park in the State of California, and for other purposes, which was, strike out all after the enacting clause and insert:

That in order to preserve significant examples of the primeval coastal redwood (Sequoia sempervirens) forests and the streams and seashores with which they are associated for purposes of public inspiration, enjoyment, and scientific study, the Secretary of the Interior is authorized to establish an area to be known as the Redwood National Park in Del Norte and Humboldt Counties, California.

SEC. 2. (a) The area to be included within the Redwood National Park is that generally depicted on the map entitled "Proposed Redwood National Park," numbered NP–RED–7113, and dated June 1968, copies of which map shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Del Norte and Humboldt Counties. The Secretary may from time to time, with a view to carrying out the purpose of this Act and with particular attention to minimizing siltation of the streams, damage to the timber, and assuring the preservation of the scenery within the boundaries of the national park and seashore as depicted on said map, modify said boundaries, giving notice of any changes involved therein by publication of a revised drawing or boundary description in the Federal Register and by filing said revision with

the officers with whom the original map was filed, but the acreage within said park shall at no time exceed twenty-eight thousand five hundred acres, exclusive of submerged lands.

(b) Notwithstanding the provisions of subsection (a) of this section, the boundaries of the park and seashore shall not include existing State highways, but the Secretary of the Interior may cooperate with appropriate officials of the State of California and of Del Norte and Humboldt Counties in patrolling and maintaining such roads and highways.

SEC. 3 (a) The Secretary is authorized to acquire lands and interests in land within the boundaries of the Redwood National Park and, in addition thereto, not more than ten acres outside of those boundaries for an administrative site or sites. Such acquisition may be by donation, purchase with appropriated or donated funds, exchange, or otherwise, but lands and interests in land owned by the State of California may be acquired only by donation, and no other lands or interests in land within the boundaries of the park shall be acquired until said State has conveyed or agreed to convey the lands owned by it therein to the United States for the purpose of this Act. If any individual tract or parcel of land to be acquired is partly inside and partly outside said boundaries, the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel, exchange that part of it which is outside the boundaries for land or interests in land inside the boundaries or for other land or interests in land to be acquired pursuant to this Act, and dispose of so much thereof as is not so utilized in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 471 et seq.). The cost of any land so acquired and disposed of shall not be charged against the limitation on authorized appropriations contained in section 10 of this Act.

(b) The Secretary is further authorized to acquire, as provided in subsection (a) of this section, lands and interests in land bordering both sides of the highway between the present southern boundary of Prairie Creek Redwoods State Park and a point on Redwood Creek near the town of Orick to a depth sufficient to maintain or to restore a screen of trees between the highway and the land behind the screen and the activities conducted thereon.

(c) In order to afford as full protection as is reasonably possible to the timber, soil, and streams within the boundaries of the park, the Secretary is authorized, by any of the means set out in subsection (a) of this section, to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the consequences of forestry management, timbering, land use and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park as aforesaid. As used in this subsection, the term "interests in land" does not include fee title unless the Secretary finds that the cost of a necessary less-than-fee interest would be disproportionately high as compared with the estimated cost of the fee. No acquisition shall be effectuated except by donation and no contract or cooperative agreement shall be executed by the Secretary pursuant to the provisions of this subsection until sixty days after he has notified the President of the Senate and the Speaker of the House of Representatives of his intended action and of the costs and benefits to the United States involved therein.

(d) Upon agreement by the State of California to administer the same as a part of its State park system, the Secretary is authorized to acquire, by any of the means set out in subsection (a) of this section, the tract of land comprising approximately three hundred and ninety acres, in sections 5, 8, and 9, township 1 north, range 2 east, which is frequently referred to as the Van Duzen grove and, upon request of the State, to transfer title to said tract to it. Said title shall revert to the United States if the State fails or ceases to administer the land for public park and recreation purposes or if it attempts to transfer the title to any third party for any purpose.

SEC. 4. (a) Improved property within the boundaries of the Redwood National Park shall not be subject to condemnation as long as its conforms to zoning bylaws established by the county in which the property is situated, which bylaws conform to standards set by the Secretary. Such bylaws shall be designed among other things, (i) to permit only such minor improvements on the property as are compatible with the purpose of the park and seashore and (ii) to promote the purpose of the park and seashore by establishing acreage limits, frontage and setback requirements, and procedures for giving public notice of zoning, variances, and exceptions.

(b) The owner of improved property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner ro the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purpose of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(c) The term "improved property", as used in this section, means a detached, noncommercial residential dwelling, the construction of which was begun before October 9, 1967, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 5. In exercising his authority to acquire lands and interests in land by exchange under this Act, the Secretary may accept title to non-Federal property and transfer to the grantor any federally owned property under his jurisdiction in the State of California, except property needed for public use and management, which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

SEC. 6. Notwithstanding any other provision of law, any Federal property located within any of the areas described in sections 2 and 3 of this Act may, with the concurrence of the head of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of this Act.

SEC. 7. (a) Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of this Act as was given the Secretary of the Treasury for other land acquisitions by section 34 of the Act of May 30, 1908 (35 Stat. 545, 40 U.S.C. 261), and the Secretary and the owner of land to be acquired under this Act may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments.

(b) Judgments against the United States for amounts in excess of the deposit in court made in condemnation actions shall be subject to the provisions of section 1302 of the Act of July 27, 1956 (70 Stat. 694), as amended (31 U.S.C. 724a) and the Act of June 25, 1948 (62 Stat. 979), as amended (28 U.S.C. 2414, 2517).

SEC. 8. The present practice of the California Department of Parks and Recreation of maintaining memorial groves of redwood trees named for benefactors of the State redwood parks shall be continued by the Secretary in the Redwood National Park.

SEC. 9. The Secretary shall administer the Redwood National Park and Seashore in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535, 16 U.S.C. 1–4), as amended and supplemented.

SEC. 10. There are hereby authorized to be appropriated not more than $56,750,000 for acquisition of lands and interests in land pursuant to section 3 of this Act and not more than $10,000,000 for necessary developments within the Redwood National Park.

And amend the title so as to read: "An act to establish a Redwood National Park in the State of California, and for other purposes."

Mr. JACKSON. Mr. President, I move that the Senate disagree to the amendment of the House and request a conference with the House of Representatives and the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. ANDERSON, Mr. BIBLE, Mr. KUCHEL, and Mr. HANSEN conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. BARTLETT, announced that the House insisted upon its amendments to the bill (S. 20) to provide for a comprehensive review of national water resource problems and programs, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. JOHNSON of California, Mr. HALEY, Mr. SAYLOR, and Mr. REINECKE were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 1004) to authorize the construction, operation, and maintenance of the central Arizona project, Arizona-New Mexico, and for other purposes, disagreed to by the Senate; agreed to the

conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. JOHNSON of California, Mr. EDMONDSON, Mr. UDALL, Mr. SAYLOR, Mr. HOSMER, and Mr. BURTON of Utah were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 14935) to amend title 39, United States Code, to regulate the mailing of master keys for motor vehicle ignition switches, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DULSKI, Mr. HENDERSON, Mr. OLSEN, Mr. NIX, Mr. CORBETT, Mr. GROSS, and Mr. CUNNINGHAM were appointed managers on the part of the House at the conference.

VOCATIONAL EDUCATION AMENDMENTS OF 1968

The Senate resumed the consideration of the bill (H.R. 18366) to amend the Vocational Education Act of 1963, and for other purposes.

Mr. MORSE. Mr. President, I think we have a complete record of what is involved in some facets of this particular matter. I wish to mention an ancillary matter. It is ancillary to the substance of the Javits amendment and the substance of the bill that the Committee on Agriculture and Forestry has reported to the Senate. But I do think, however, that it was a backdrop in front of which we all stood in getting consideration of this matter.

It will be recalled that some days ago the jurisdictional question was raised as to whether the school lunch program should be handled by the Committee on Agriculture and Forestry or by the Committee on Labor and Public Welfare. During my absence in Oregon, there had been left for my consideration, until I returned, the matter of the reference of the school lunch program. Apparently, the assumption of some Senators was that I might want to raise objection to the transfer of the program to the Committee on Argiculture and Forestry.

When I returned, I studied the facts. The record is clear that I said on the floor of the Senate that I was raising no objection. I stated that the practice had been established for some years past, with the understanding and approval of the present chairman of the Committee on Labor and Public Welfare [Mr. HILL] and the chairman of the Committee on Agriculture and Forestry [Mr. ELLENDER], that school lunch programs, particularly in view of their relationship to food from the Department of Agriculture and, as the Senator from Florida [Mr. HOLLAND] said at the time, in respect to section 32 funds, should be handled by the Committee on Agriculture and Forestry.

I made it very clear in my statement in the Senate that, without relation to any pending piece of proposed legislation, I reserved the right, if I am here next year—and if I am here next year, I shall be chairman of the Committee on Labor and Public Welfare, if the Senate follows its usual seniority practices—to raise the question of jurisdiction on the floor of the Senate, not related to any particular bill at the time.

I mention this because I think it is the backdrop that is involved to some extent in this discussion; so I went into the conference out in the cloak room. The Senator from Louisiana has stated my understanding of the position clearly. He pointed out to us that the Secretary of Agriculture made clear to him this morning—which was verified in the letter submitted to us—that he could not spend more than $50 million in the next 2 years on the school lunch program. The Senator from Louisiana pointed out the situation in regard to the appropriations conference. He also pointed out the situation in regard to the Perkins bill on the House side, that they were considering a piece of legislation in the Committee on Agriculture and Forestry which, I understand, has been considered and is at the desk, and that he thought we should try to get the matter handled through the Appropriations Committee and the Committee on Agriculture and Forestry.

The Senator from New York set forth his position—which he clearly stated this afternoon—and I want to say right here and now that I think the Senator from New York, the Senator from Pennsylvania [Mr. CLARK], the Senator from Kentucky [Mr. COOPER], the Senator from Massachusetts [Mr. BROOKE], and the Senator from Michigan [Mr. HART]—who are the authors of what is known as the Javits amendment, which was introduced originally to S. 3770, and which the Senator proposes to add to the pending vocational education bill as an amendment, have made a great contribution to this whole matter of seeking to get additional funds for the school lunch program to feed what we know—as my colleague from Oregon [Mr. HATFIELD] pointed out a few minutes ago—comprises a large number of boys and girls in this country who are hungry. They need school lunches. They need more than school lunches, they need food.

I want to say that I join them in emphasizing this issue on the floor of the Senate; but our desire to get food for the children I do not think should in any way cause us to overlook the problems which the Senator from Louisiana has raised. Thus, I want to say here and now that if we do not get the amount of money we seek now, we should follow the procedures suggested by the Senator from Louisiana. That will not stop us at all, next year, from seeking a supplemental appropriation for more money for the school lunch program.

Mr. YOUNG of North Dakota. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. I yield.

Mr. YOUNG of North Dakota. The only sure way to get the money for this year, the $50 million for school lunch is through the way suggested by the Senator from Louisiana. I understand there will not be another supplemental bill this year that it could be added to. I, as one of the conferees on the agricultural appropriation bill now in conference with the House would be happy to include the $50 million as proposed.

Mr. MORSE. I want to thank the Senator from North Dakota for his comments.

I want to talk now about the offer or offers that were made in the conference, because they have been accurately stated; but in view of the fact that I am the Senator in charge of the bill and I want a vocational education bill, I do not want it to be damaged by any conflict with the school lunch program when it can be amicably resolved.

Mr. BROOKE. Mr. President, will the Senator from Oregon yield for a question?

Mr. MORSE. I yield.

Mr. BROOKE. Is the decision based upon the lack of facilities as set forth in the Secretary's letter, or is it based upon the appropriations conference?

Mr. MORSE. The Senator from Louisiana has pointed out——

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MORSE. On the bill?

Mr. JAVITS. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has time on the amendment.

Mr. MORSE. Then I take time on the amendment, Mr. President.

Mr. CLARK. Mr. President, will someone yield me some time?

Mr. MORSE. As the Senator from Louisiana has pointed out, it is due to lack of facilities.

Mr. BROOKE. It is a question of lack of facilities, then, as set forth in the Secretary's letter. The Secretary's letter has been read, but it did not get into the specifics of the lack of facilities. It seems inconceivable that the Secretary is not able to handle $50 million in the second year, even if he is not able to handle it in the first year. I was wondering whether that is set forth in the letter from the Secretary?

Mr. MORSE. Can the Senator from Louisiana answer that?

Mr. HOLLAND. Mr. President, the Senator is referring, I think, to the letter from Secretary Freeman dated July 17, 1968, which will be printed in full in the report of the Senate Committee on Agriculture and Forestry.

However, if it is desirable to have it printed in the RECORD at this time, I am happy to ask unanimous consent that there be printed in the RECORD the letter dated July 17, 1968, to the Senator from Louisiana [Mr. ELLENDER] from Secretary of Agriculture Freeman, on this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 17, 1968.

Hon. ALLEN J. ELLENDER,
U.S. Senate.

DEAR SENATOR ELLENDER: I am responding to your request as to the amount of funds, in *addition* to those presently approved by the Senate in the pending Agriculture Appropriation bill, which the Department could expeditiously and effectively use in providing meals for needy children in schools and in other group activities outside the school in fiscal 1969.

At the present time I cannot assure you of the Department's level of spending under any of the proposed bills relating to the Child Nutrition programs. This can be done only when the Executive Branch completes its review of all programs and has weighed them in relation one to the other, in light of actions taken by Congress to cut expenditures. Section 32 funds are not exempted from the expenditure limitations set down by Congress in the Revenue and Expenditure Control Act of 1968.

The Department would be able to effectively and efficiently expand the Child Nutrition programs beyond the present level approved by the Senate by $50 million in fiscal 1969. The major need at this time is for a substantial expansion in the number of free and reduced price lunches provided to needy school children under Section 11 of the National School Lunch Act. Here we could efficiently spend $30 million more than has been voted by the Senate.

Expansion of free lunches to poor children beyond this point would be dependent on the speed by which local schools could expand child feeding facilities. We estimate that we could carry out an expansion of the facilities assistance program which would be $8 million higher than provided in the Senate appropriations. Such an expansion would enable us to carry out an expanded program of free and reduced price lunches to reach on an efficient basis in future years, all children who can't afford to pay.

We estimate that the School Breakfast program could be efficiently expanded to a level $10 million higher than in the Senate appropriation. This program has been in operation now for two years, the States have readily accepted it, and are willing to enlarge the program if we can assure them that the funds will be available.

These estimates reflect the fact that the new school year will begin in little more than a month. State School Lunch agencies will have to gear up in that short period to handle an increase in program activity. Local school districts will need to make necessary arrangements to initiate new programs or to expand existing ones. It will be well into the new school year, probably December, before the expanded program as a practical matter can be put into full operation.

For example, substantial time is involved in purchasing new equipment; specifications must be developed and be approved, bids must be obtained and contracts let and executed. Many schools, therefore, would not require operating funds until the middle of the school year.

The expansion in these programs during fiscal 1969 of the magnitude you have indicated by your inquiry, would be warmly welcomed by the States and local school districts around the country. To those who will administer the programs at local levels, and to the children who now will receive an improved diet they otherwise would have been denied, it means that the Federal government intends to aggressively pursue the goal of reaching every needy child even though he can't afford to pay for it.

I wholeheartedly support this objective.

Sincerely yours,

ORVILLE L. FREEMAN.

Mr. MORSE. Mr. President, what I should like to do now, at this point in the RECORD using the time available on the amendment—is to cover this discussion of the offer that was made in our conference.

It is true, as the Senator from Louisiana and the Senator from New York [Mr. JAVITS] pointed out, that it was suggested we go for $50 million for the next 2 years——

Mr. HOLLAND. Each year.

Mr. MORSE. Each year, for 2 years. The Javits amendment would be modified accordingly. We would vote on it here on the floor of the Senate, and we would then take it to conference. But I would agree—and I did agree—that I would move that the Senate recede in conference if, in the meantime, the Committee on Agriculture and Forestry reported either a bill providing for the amount, or the appropriations conference came out with that amount, which was discussed at some length. Let me say to my good friend from Louisiana that although he said 15 or 20 minutes, there were three quorum calls, and I think we were in conference all of 40 minutes. We went over it backward and forward.

It is also true that there was general agreement among all of us. I think I am right, we all would have agreed except we could not get unanimity; there was practically unanimity. The conference formally broke up, but I would be less than honest, Mr. President, if I did not say that as the conference broke up, I said to the Senator from Montana [Mr. MANSFIELD], to the Senator from Vermont [Mr. AIKEN], and to the Senator from North Dakota [Mr. YOUNG], "I wish you would talk to the member of the conference who was not willing to go along. I think further discussion among you might bring out an agreement and we can wait and see what happens at this Wednesday meeting."

I have no doubt that the Senator from New York [Mr. JAVITS] considered that, so far as he was concerned, when that conference formally broke up, there was no commitment for any further consideration.

As the Senator from Montana [Mr. MANSFIELD] will tell us, that I talked later that evening with him and I said, "I think we are so close to the resolution of this matter that I wish you would pursue the matter further."

I regret very much that I did not talk with Senator JAVITS. We did not converse further. But I was hopeful that between then and today we could get that understanding. That does not bind Senator JAVITS in any way, but that bill from the Committee on Agriculture and Forestry is at the desk. I am authorized to give assurance for the Senator from Montana [Mr. MANSFIELD] that, as majority leader, he will call up that bill for action if this matter is not resolved before it is necessary to take action on that bill.

I, as manager of H.R. 18366, want to say I would be willing to go back to the offer that was made. I do not ask Senator JAVITS to go back to it, but I would be willing to go back to the offer that was made, that we take $50 millon to the conference on this bill, with my pledge in conference, and renewed here on the floor of the Senate, that I will move to recede on that matter as soon as it gets resolved in the bill from the Agriculture Committee or in conference. I do not think we should run any risk of losing what seems to be the maximum we can get for the school lunch program.

I make the further statement that, come next January, if I am here, I will join Senators JAVITS, BROOKE, COOPER, CLARK, and HART in offering a bill that will increase the amount, depending on what facts we can show at that time, of funds for the school lunch program. But look at the spot we are going to be in if we go into the Javits amendment this afternoon—and I speak hypothetically—and we lose on it. I think we would set ourselves back. I think we would also have made this whole jurisdictional matter foggy, which I wanted to put to sleep when I spoke on it the other day on the floor of the Senate, by letting it go over until next year. There is a great danger that some persons will interpret a defeat of the Javits amendment—if it is defeated—as implying action on a future jurisdictional question. I do not think we ought to cross that bridge at all today.

I want the Senator from New York to know he is not in any way obligated to me to revive the proposal that we made in conference the other afternoon, but I think he will find the overwhelming majority of those who were in that conference would prefer to do that.

I would like to have the Senator at least give consideration—I hope favorable consideration—to our getting out of the parliamentary mesh we are in by going back to what we discussed in the corridor the other day, and take the understanding to conference.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. MORSE. I yield.

Mr. PASTORE. This is an authorization bill. If this amendment should pass, then would it automatically release the money, or would it have to go through the appropriation process?

Mr. MORSE. It still would go through the appropriation process.

The Senator from New York says he does not think it has to go through appropriation, because it designates section 32 funds.

Mr. PASTORE. That is the question I am asking. I think it is very important at this time, in making our determination, to ascertain whether or not we have to go through this twice. This is only an authorization bill, and no matter how much is authorized, there is still the question of what will be appropriated.

Mr. JAVITS. Mr. President, if the Senator will yield to me, my understanding of the situation is that if we adopt the amendment, it becomes law. The Secretary of Agriculture can then take $50 million out of section 32 funds without any further action by the Appropriations Committee.

Mr. PASTORE. Is that the Senator's understanding?

Mr. JAVITS. That is my understanding.

Mr. MILLER. Mr. President, will the Senator yield at that point?

Mr. JAVITS. The Senator from Oregon has the floor.

Mr. CLARK. Mr. President, will the Senator yield to me? I have been trying to get the floor.

Mr. MORSE. Mr. President, I yield first to the Senator from Pennsylvania. Then I shall yield to the Senator from Iowa.

Mr. CLARK. Mr. President, if I may have the attention of the Senator from New York, it is my understanding that he still has pending an amendment which would incorporate the provisions of House bills 17872 and 17873, both of which have passed the House. Is that correct?

Mr. JAVITS. That is correct.

Mr. CLARK. I personally do not feel I am a party to any commitment made in the conference a few days ago. I attended the conference and tried to work out an understanding with our friends on the Appropriations and Agriculture Committees. In my opinion, we failed. When we left, we had no agreement. I would like to see the Senator stick to his guns and stick to his amendment. If that amendment fails, it is my belief there is enough compassion here that $50 million would nonetheless be favorably provided for these hungry children. That is a fact. There are hungry children.

I want to read from the hearings held within the last 3 days by the Subcommittee on Employment, Manpower, and Poverty, in which it was stated:

> Financially the school lunch program is failing to provide lunches for 2 out of 3 needy children—Philadelphia, Minneapolis—in the school lunch program.

The same situation in Seattle. We had statements from representatives of the National Council of Catholic Women, the National Council of Negro Women, the National Council of Jewish Women, the National Council of the YMCA's. One Mobile, Ala., principal testified that the children for the lunch program are selected at the beginning of the year; there was no rotation of the lunch program; if one has to go hungry, he might as well get used to it.

Under the circumstances, I think we should adopt the Javits amendment as submitted.

Mr. MORSE. Mr. President, I yield to the Senator from Iowa [Mr. MILLER].

Mr. MILLER. I would like to ask a question of the Senator from New York in light of the question of the Senator from Rhode Island. My understanding of the conference referred to is that the Javits amendment would provide for section 32 funds or for money out of the general funds of the Treasury, as the Appropriations Committee would determine. If that is the way it is going to be in the amendment, then the Senator's question is answered; but I am afraid, on the basis of the colloquy between the Senator from New York and the Senator from Rhode Island, there may be a misunderstanding.

Mr. JAVITS. There is no misunderstanding. The proposal which I made last Monday, which was not acted on, was a proposal, as the Senator stated, in which the funds would be provided for by the Appropriations Committee. That is not the proposal in my amendment now. What I am proposing today—and I have not actually done it yet—would leave the section 32 funds provision untouched. It would be section 32 funds. So that as I would modify my amendment, which I indicated I might very well do, it would leave in the section 32 funds provision.

Mr. MILLER. Why would the Senator object to leaving it in the alternative, section 32 funds or general Treasury funds, as the committee may determine?

Mr. JAVITS. The Senator from Rhode Island has already given us the key to that. It is a question of two steps versus one step. I want the Senate to act definitively, in view of the large amounts which have been returned to the Treasury, some $227 million in fiscal year 1968. We have an estimate that there will be even more money available in the next fiscal year.

Mr. MILLER. As I understand it, if it provides that the money will come from section 32 funds or general Treasury funds, in either case the funds will be assured.

Mr. JAVITS. No, it will not, unless the Appropriations Committee in the latter case provides for it, provides for a conference, and so forth. That is a big question.

Mr. MILLER. Is the Senator suggesting that the section 32 funds provision is going to assure us that the Appropriations Committee cannot turn it down?

Mr. JAVITS. That is right. The Appropriations Committee cannot act on it. The money will be payable out of section 32 funds. We have to cross the bridge of executive and presidential responsibility, but the other is within the purview of the Appropriations Committee.

Mr. HART. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Michigan.

Mr. HART. Mr. President, most or all of us, on occasions, have found ourselves in positions such as the Senator from New York now finds himself in, responsible primarily for an amendment seeking to cooperate with the manager of the bill to achieve the basic objective of the vocational education bill, confronted with very serious opposition and, in the process, having had at least one discussion with the parties interested.

He is reluctant to hold tight, shall I say, to the basic proposal of $100 million for 3 years, feeling that there might be an impression on the part of those who were resisting the amendment initially that, in a series of negotiations, some understanding and development would raise a question as to his good faith, if he now insists on the $100 million.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. JAVITS. That is not the situation with me.

I have crossed that bridge by pointing out that I am not bound. I am trying to get as broad a consensus as possible, to get the amendment passed, and, faced with a finding of fact by the Secretary of Agriculture that he can only use $50 million the first year, what is the use of trying to force something which obviously is not going to be available or cannot be used? I am trying to make the amendment as palatable as I can.

Mr. HART. Very well. Then, in view of that fact, and with the assurance that there is no personal sensitivity involved, I would hope that the Senator from New York would consider seriously making the appropriation for the second and third years at the level we have suggested, but, realizing also the problem that is raised as to the first year by the Secretary of Agriculture, it seems to me we would be raising more trouble than we would be able to survive by violating the Secretary's pronouncement that $50 million is all we can have; though certainly, in the magnificent bureaucracy all of us associate with the Department of Agriculture, there must be the imagination and resourcefulness to find sources of funds for the second year to assure that children will not starve.

Several Senators addressed the Chair.

Mr. MORSE. Mr. President, before yielding, I wish to say this, though perhaps it should be said in conference rather than on the floor of the Senate: What bothers me about this matter, and one of the problems I think we are creating for ourselves, is that if we go ahead with the Javits amendment in its present form, and let us assume we pass it, it is likely to have its repercussions in conference with the House of Representatives on the Agriculture appropriation.

I do not think we should do that. I think it is quite a different thing if we take the same figure to our conference, with the understanding that we will recede. If it comes out of conference with the House of Representatives for $50 million on the Agriculture appropriations bill, I think we are creating unnecessary problems for ourselves. I do not think we will get more than $50 million now, anyway; but in January, we can seek more money for the school lunch program, and will not have any trouble getting it then. I believe we ought to take our $50 million now, and seek more in January.

Several Senators addressed the Chair.

Mr. MORSE. One further point, Mr. President. We did not expect to get into this long parliamentary involvement. In deference to the position of the Senator from Utah, he has an amendment on which I think he is entitled to a hearing, and I believe we ought to extend the time, to enable consideration of the amendment of the Senator from Utah, to 4:15. The Senator can handle it in 15 minutes, can he not?

Mr. MOSS. Yes; I can.

Mr. MORSE. If the majority leader will support me, I ask unanimous consent to extend the time for the vote on the bill from 4 o'clock to 4:15.

Mr. JAVITS. With the rollcall vote on the amendment, there will not be enough time.

Mr. MORSE. The Senator from New York says that the rollcall votes will not permit us enough time.

I modify my request by asking for 15 minutes following the rollcall vote on the Javits amendment, if we come to a rollcall vote on it.

Mr. JAVITS. Mr. President, will the Senator make that 20 minutes?

Mr. MORSE. The Senator from New York asked for a modification to 20 minutes.

The PRESIDING OFFICER. And that rule XII be suspended?

Mr. MORSE. And that rule XII be suspended.

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. Mr. President, reserving the right to object, I think the re-

quest is rather vague. Fifteen minutes after the rollcall?

Mr. JAVITS. Twenty minutes.

Mr. PASTORE. When is the rollcall to take place?

Mr. JAVITS. It will have to take place at 4 o'clock.

Mr. MORSE. The rollcall not later than 4 o'clock.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Will that 20 minutes be equally divided between the two sides?

The PRESIDING OFFICER. Under the previous order, the vote on the bill is to come at 4 o'clock, not on the amendment.

Mr. JAVITS. Mr. President, do I understand we have 15 minutes left on the bill? The Senator from Florida [Mr. HOLLAND] has been waiting to be recognized; I would like to yield him 4 minutes; will the Senator indulge us?

Mr. CLARK. Thirty seconds is all I can allow.

Mr. BYRD of West Virginia. Mr. President, will the Chair state the unanimous-consent request?

Mr. AIKEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HOLLAND. Mr. President, I requested that someone yield time to me. I have an interest in this matter.

Mr. JAVITS. I have yielded the Senator 4 minutes.

Mr. HOLLAND. I will finish as quickly as I can.

First, the Committee on Appropriations does not need an actual authorization to act mercifully to schoolchildren. We have $177 million in appropriated funds and $64 million from section 32 in this year's bill for the school lunch program, and $104 million from section 32 for the school milk program, and this has been done without anybody telling us to do so; and we have been doing this kind of thing for years.

Besides that, the section 32 funds primarily are used for the reduction of surpluses in perishable crops; and as those perishable crops are bought, they are diverted largely to the school lunch program. The total for last year, of appropriations and food diverted to the school lunch program, came to $469 million. We are not parsimonious in this matter at all.

Second, with reference to the meaning of the amendment, if the amendment is simply an embodiment of the bill reported today by the Committee on Agriculture and Forestry, I understand that this would be regarded as a mandate from Congress to supply $50 million for this program.

The reason that the Appropriations Committee is brought into this matter is that in several years there have been no balances left out of section 32 funds, and the only way to meet any such mandate and to guarantee the availability of the amounts required would be to provide them from general revenue funds. Every Senator who knows anything about section 32 knows that to be the case.

My third point, Mr. President, and I hope the Senator from New York will pay attention, is this: We are all subject to failings in our recollections, but my recollection of the proposal of the Senator from New York was exactly as stated by the Senator from Oregon [Mr. MORSE]: that the meeting of the Committee on Agriculture and Forestry, called by the Senator who heads it, the Senator from Louisiana [Mr. ELLENDER], was to consider these two bills coming over from the House of Representatives, and that we were to try to bring out a bill to provide $50 million a year for each of the 2 years, payable either out of section 32 funds or, if required, out of general revenues.

Such a bill was reported this morning. I am somewhat troubled about this matter, because I reported to the committee, as did Senator ELLENDER and Senator AIKEN—and we were parties in this agreement the other day—that this was the proposal of the Senator from New York. If I have misunderstood it, I regret it.

Furthermore, I reported to the able Representative from Kentucky [Mr. PERKINS] that we were trying to work this matter out in the Senate and in the conference committee, and we have gotten very close to a solution of it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLAND. Will the Senator yield me 1 further minute?

Mr. JAVITS. One minute.

Mr. HOLLAND. It is highly desirable that we be given every incentive to work this matter out, because the $50 million, if it can be included in the fiscal year 1969 bill by the conference committee on the agricultural appropriation bill, will surely take care of this matter for the current fiscal year that has already begun.

I think that we are with in sight of a settlement on this issue. I do not think it would help a settlement of it to go beyond what was reported to our committee as being the proposal of the able Senator from New York. If it was not such, I regret it because it was also reported to the Secretary of Agriculture, and to the able Congressman from Kentucky [Mr. PERKINS] as the Senator's proposal.

Everyone concerned understood his proposal as being that which was stated by the able Senator from Oregon [Mr. MORSE]. I hope if the Senator from New York amends his amendment, he will amend it so as simply to offer the bill reported today by the Committee on Agriculture and Forestry, after strong efforts by the Senator from Vermont [Mr. AIKEN], the Senator from Louisiana [Mr. ELLENDER] as chairman, and myself.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I have exactly 10 minutes remaining. I propose to yield 1 minute to the Senator from Pennsylvania and 1 minute to the Senator from Massachusetts. However, I first yield 30 seconds to the distinguished acting majority leader for a unanimous-consent request.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order for the distinguished Senator from Louisiana [Mr. ELLENDER] to submit his amendment as a substitute for the amendment offered by the disguished Senator from New York [Mr. JAVITS], even though the time on the Javits amendment has not yet expired.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I did not understand the request was to offer the amendment at this time. I understood the request was to offer the amendment. I am not agreeable to the amendment being offered at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. I will agree to its being offered before my time has expired.

The Senator might rephrase the unanimous-consent request.

Mr. MORSE. Mr. President, I want to raise a parliamentary point. I think the Senate should hear me as the manager of the bill. The manager of every bill has a normal obligation to every Member of the Senate.

Since objection was raised recently to my request to extend the time beyond 4 o'clock to vote on the pending bill, I am in a position now to say that if I renew the request, at least the objection will not come from the same source—and I hope from no other source.

We have to grant parity to everyone here. I have never known of a time before that we had any trouble in getting a reasonable extension of time.

I now ask unanimous consent that when the Senator from Utah [Mr. Moss] offers his amendment, 10 minutes be granted to the proponents of the amendment and 10 minutes to the opponents of the amendment and that the time of the unanimous-consent agreement be extended by that 20-minute period, to run after 4 o'clock.

Mr. BYRD of West Virginia. And that rule XII be waived.

Mr. JAVITS. And that there be permission for the Senator from Louisiana [Mr. ELLENDER] to offer his amendment as a substitute for my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CLARK. Mr. President, I hope that no Senators will be influenced with respect to this matter by the statement of the Secretary of Agriculture to the effect that he cannot spend more than $50 million to feed hungry children in the United States of America during the ensuing fiscal year.

If I were the Secretary and I could not spend more than $50 million to feed the hungry children of this country for 12 months, I would get myself a new bureaucracy.

I know Orville Freeman well enough to know that he could spend $50, $100, $150, or $200 million if he would make his bureaucracy go back to work.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield 1 minute to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 1 minute.

Mr. BROOKE. Mr. President, the distinguished Senator from New York has said his proposed modification is based upon the letter from the Secretary of Agriculture. What is the basis of the modification as far as the second year is concerned?

Mr. JAVITS. Mr. President, I was trying to accept the judgment of the Committee on Agriculture and Forestry, which today reported a $50 million bill.

I say to the Senator in fairness that I am persuaded by those who have joined with me in the amendment that this is not satisfactory to them. I am now considering proposing as a modification the optimum—the amount I think is the optimum—of $50, $75, and $100 million. I wonder if that would be satisfactory to my colleague.

Mr. BROOKE. It would. I have read the letter, and there is nothing contained in the letter which would suggest that in the second year he could not spend more than $50 million.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to state the modification.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HOLLAND. Mr. President, we want to know what is in the amendment.

Mr. JAVITS. Mr. President, the amendment as modified would take the $100 million for each of the years 1969, 1970, 1971, and change it to $50, $75, and $100 million. That is all it does. It does nothing else.

I might explain something to the Senator.

The Senator from Louisiana [Mr. ELLENDER] will offer the measure which the Committee on Agriculture and Forestry has worked out.

The Senate may vote yea or nay on that and may accept the whole package. That is the privilege of the Senate. However, I think we have completely debated the matter. I have been very frank with the Senator.

I have modified my amendment so that I can in good conscience consider what the Committee on Agriculture and Forestry considered and go further.

In deference to my colleagues who have joined in the amendment, there is another little problem, and that is that there are two technical amendments which need to be made to the bill.

I propose to add them to my amendment. That is the only way in which I see that time can be provided, unless we can arrange to take 5 extra minutes out of the 20 minutes to make these two little technical amendments to the bill.

Mr. MORSE. Mr. President, if they are just technical amendments, we can do it in a minute. I do not think they should be taken out of the Senator's time.

Mr. JAVITS. Mr. President, I will accept my chairman's judgment on that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. Mr. President, we face a certain moral issue in respect to this matter. Every Senator must decide it for himself. That moral issue in this case includes the matter of whether there are any commitments of the kind to which the Senator from Florida [Mr. HOLLAND] referred.

I state for the RECORD—because I expect to live here for a long time, as I have already—that there was no commitment on my part, not even a discussion on my part concerning making this accord to whatever the Committee on Agriculture and Forestry was to do.

There was an offer by me, and the offer was to do exactly on the vocational education bill what the Committee on Agriculture and Forestry has reported. I am not bound by that offer. The offer was not accepted. I did not undertake any agreement to await the action of the Committee on Agriculture and Forestry.

They said that we would see what they do on Wednesday morning. They could not make a deal on Monday, and all bets were off, as they say.

I have done my best. In deference to the views of my colleagues who disagree with me, they are going along with me because I am taking the responsibility. I ought to be listened to. I have modified the amendment to the rockbottom basis that is needed. The Senate can vote on whether they want the amount to be $50 million for 1969, $75 million for 1970, and $100 million for 1971. The amendment may be defeated, but the Senators should understand the amendment.

I am delighted that the Senator from Louisiana [Mr. ELLENDER] will offer his substitute amendment and the Senate will then have a full opportunity to do what is desired.

If the substitute amendment is agreed to, I will cooperate as fully as I can as a member of the committee and of the Senate.

Mr. ELLENDER. Mr. President, I send to the desk a substitute amendment for the Javits amendment. It consists of action taken by the Committee on Agriculture and Forestry this morning pursuant to the agreement made on Monday.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to state the amendment.

Mr. ELLENDER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The modified amendment, ordered to be printed in the RECORD, is as follows:

In lieu of the matter proposed to be inserted by the Javits amendment, insert:

"That the National School Lunch Act (42 U.S.C. 1752) is amended by adding at the end of the Act the following new section:

"'TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOL AND IN OTHER GROUP ACTIVITIES OUTSIDE OF SCHOOL

"'SEC. 14. (a) Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to use during each of the fiscal years 1969 and 1970 not to exceed $50,000,000 per annum in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) or from funds appropriated to carry out this section, as may be provided by appropriation Act.

Pacific Islands shall each be paid an amount which bears the same ratio to the total of such reserved funds as the number of children aged three to seventeen, inclusive, in each bears to the total number of children of such ages in all of them.

"'(2) From the remainder of the funds available for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remaining funds as (1) the number of children in that State aged three to seventeen, inclusive, in families with incomes of less than $3,000 per annum, and (2) the number of children in that State aged three to seventeen, inclusive, in families receiving an annual income in excess of $3,000 per annum from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, bears to the total number of such children in all the States. For the purposes of this section, the Secretary shall determine the number of children aged three to seventeen, inclusive, of families having an annual income of less than $3,000 on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a State are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary shall determine from data which shall be supplied by the Secretary of Health, Education, and Welfare the number of children of such ages from families receiving an annual income in excess of $3,000 per annum from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, on the basis of the latest calendar or fiscal year data, whichever is later. For the purposes of this paragraph, the term "State" does not include Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"'(c) State agencies, or the Secretary as appropriate, shall use the funds to provide meals to children whose parents or guardians do not have the financial ability to provide for the adequate nutrition of their children and to children determined by local officials as in need of improved nutrition. The funds may be used to finance such children's participation in an eligible nonprofit food service; to assist in financing the purchase of equipment needed to operate such programs,

and not to exceed an amount equal to 2 per centum of the total funds used under subsection (a) in any fiscal year may be used in such fiscal year to defray part of the administrative costs of the Department of Agriculture and State agencies in carrying out this section.

"'(d) The authority contained in this section is intended to supplement the authority and funds available for use under other sections of this Act and the Child Nutrition Act, as amended.

"'(e) The Secretary of Agriculture shall issue regulations implementing the operation of this program including guidelines for the determination of the eligibility of children for free and reduced-price meals.

"'(f) The withholding of funds for and disbursement to nonprofit private schools will be effected in accordance with section 10 of the National School Lunch Act, as amended, exclusive of the apportionment ratio and the matching provisions thereof.

"'(g) The withholding of funds and disbursement to eligible service institutions will be effected in accordance with section 13(d).'

"SEC. 2. (a) Section 9 of the National School Lunch Act (42 U.S.C. 1759) is amended by inserting after the second sentence a new sentence, 'Such determinations shall be made by local school authorities in accordance with a publicly announced policy and plan applied equitably to all families in the school attendance area on the basis of criteria which as a minimum shall include factors for the level of family income, including welfare grants, the numbers in the family unit, and the number of children attending school.'.

"(b) Section 9 of such Act is further amended by inserting after the former third sentence the following: 'Overt identification of such child or children in the lunchroom or classroom by means such as special tokens or tickets or by announced or published lists of names is expressly prohibited'.

"(c) Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) and section 13(f) of the National School Lunch Act as amended by Public Law 90-302, section 3, are amended by inserting in each of those sections, respectively, wording identical with the amendments to section 9 of the latter Act provided by subsections (a) and (b) of this section.

"SEC. 3. (a) Section 3 of the National School Lunch Act (42 U.S.C. 1752) is amended by inserting at the end thereof: 'Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States.'

"(b) Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by inserting immediately before the last sentence of the section the following: 'For the fiscal year beginning July 1, 1969, and each succeeding fiscal year, the Secretary's determination of what funds from sources within a State may be regarded as from sources within a State for purposes of matching shall be limited by the availability of State tax revenues for use for program purposes in the local school attendance units. For each of the first two such fiscal years, such State appropriated funds must equal at least 4 per centum of the matching requirements; for each year of the second two-year period, at least 6 per centum of the matching requirement; for each year of the third two-year period, at least 8 per centum of the matching requirement; and for each subsequent fiscal year, at least 10 per centum of matching requirements must be met from such State appropriated funds.'

"(c) Section 12(d)(5) of such Act is amended by striking the words 'preceding fiscal year' and inserting in lieu thereof the following: 'latest completed program year immediately prior to the fiscal year in which the Federal appropriation is requested'.

"SEC. 4. (a) Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by inserting in the first sentence, before the comma following the phrase 'his administrative expenses', the following: (including administrative expenses for the Child Nutrition Act of 1966 other than for section 3 of that Act)".

"(b) Section 6 of such Act is further amended by inserting in the first sentence after the comma following the phrase 'pursuant to section 11', the following: 'and less not to exceed 1 per centum of the funds appropriated for carrying out the programs under this Act and the provision of the Child Nutrition Act of 1966 other than section 3, hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means of nutritional training and education for workers, cooperators and participants in these programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966'.

"(c) Section 12(c) of the National School Lunch Act (42 U.S.C. 1760) is amended by striking the period at the end of the subsection and inserting ', except as provided in section 6 of this Act.'

"(d) Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780) is amended by striking the period at the end of the subsection and inserting, 'except as provided in section 6 of the National School Lunch Act.'

"SEC. 5 (a) Section 12(d)(1) of the National School Lunch Act (42 U.S.C. 1760) is amended by striking the word 'or' that precedes the term 'American Samoa' and by adding at the end of the sentence the following: 'or the Trust Territory of the Pacific Islands'.

"(b) Section 15(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended by striking the word 'or' that precedes the term 'American Samoa' and by adding at the end of the sentence the following: 'or the Trust Territory of the Pacific Islands'.

"(c) The sections of such National School Lunch Act and Child Nutrition Act of 1966, other than the sections amended by subsections (a) and (b) of this section and other than in the proviso in section 11(b) and in section 4 of the National School Lunch Act, are amended by inserting the phrase 'and the Trust Territory of the Pacific Islands' after the term 'American Samoa' wherever that term appears in such Acts."

Mr. ELLENDER. Mr. President, the substitute amendment contains the very language of the Javits amendment except as to the amount.

The amendment provides $50 million for 1969 and $50 million for 1970.

Mr. JAVITS. But it also provides it should be out of section 32 funds or appropriations.

Mr. ELLENDER. The Senator is correct.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on both amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it may be in order for the Senator from New York to ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on both amendments.

The yeas and nays were ordered on both amendments.

Mr. MORSE. Mr. President, I shall support the Ellender substitute. I believe it is the best way out of the parliamentary mess we are in. I believe it puts it squarely up to those of us who want more money for the school lunch programs to come back next January to ask for additional funds. I believe that now we should go along with the $50 million.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the substitute amendment of the Senator from Louisiana for the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING] and the Senator from Montana [Mr. MANSFIELD] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT] would vote "nay."

Mr. KUCHEL. I announce that the Senator from Michigan [Mr. GRIFFIN] is necessarily absent.

The result was announced—yeas 57, nays 31, as follows:

[No. 213 Leg.]

YEAS—57

Aiken	Gore	Moss
Allott	Hansen	Mundt
Anderson	Hartke	Murphy
Bayh	Hickenlooper	Muskie
Bennett	Hill	Pastore
Bible	Holland	Pell
Boggs	Hollings	Prouty
Byrd, Va.	Hruska	Randolph
Byrd, W. Va.	Jackson	Smathers
Cannon	Jordan, N.C.	Smith
Carlson	Jordan, Idaho	Sparkman
Church	Lausche	Stennis
Curtis	Long, La.	Symington
Dominick	McClellan	Talmadge
Eastland	McIntyre	Thurmond
Ellender	Miller	Tower
Ervin	Monroney	Williams, Del.
Fannin	Montoya	Yarborough
Fong	Morse	Young, N. Dak.

NAYS—31

Baker	Hart	Pearson
Brewster	Hatfield	Percy
Brooke	Inouye	Proxmire
Burdick	Javits	Ribicoff
Case	Kuchel	Scott
Clark	Magnuson	Spong
Cooper	McGee	Tydings
Cotton	Metcalf	Williams, N.J.
Dirksen	Mondale	Young, Ohio
Dodd	Morton	
Harris	Nelson	

NOT VOTING—11

Bartlett	Hayden	McCarthy
Fulbright	Kennedy	McGovern
Griffin	Long, Mo.	Russell
Gruening	Mansfield	

So Mr. ELLENDER'S substitute amendment for Mr. JAVITS' amendment was agreed to.

Mr. MORSE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ELLENDER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [Mr. JAVITS], as amended by the amendment of the Senator from Louisiana [Mr. ELLENDER]. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING], the Senator from Montana [Mr. MANSFIELD], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Georgia [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Alaska [Mr. GRUENING], the Senator from North Carolina [Mr. JORDAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Montana [Mr. MANSFIELD], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Michigan [Mr. GRIFFIN] is necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER] is detained on official business.

The result was announced—yeas 85, nays 0, as follows:

[No. 214 Leg.]

YEAS—85

Aiken	Gore	Mundt
Allott	Hansen	Murphy
Anderson	Harris	Muskie
Baker	Hart	Nelson
Bayh	Hartke	Pastore
Bennett	Hatfield	Pearson
Bible	Hill	Pell
Boggs	Holland	Percy
Brewster	Hollings	Prouty
Brooke	Hruska	Proxmire
Burdick	Inouye	Randolph
Byrd, Va.	Jackson	Ribicoff
Byrd, W. Va.	Javits	Scott
Cannon	Jordan, Idaho	Smathers
Carlson	Kuchel	Smith
Case	Lausche	Sparkman
Church	Long, La.	Spong
Clark	Magnuson	Stennis
Cooper	McClellan	Symington
Cotton	McGee	Talmadge
Curtis	McIntyre	Thurmond
Dirksen	Metcalf	Tower
Dodd	Miller	Tydings
Dominick	Mondale	Williams, N.J.
Eastland	Monroney	Williams, Del.
Ellender	Montoya	Yarborough
Ervin	Morse	Young, N. Dak.
Fannin	Morton	
Fong	Moss	

NAYS—0

NOT VOTING—14

Bartlett	Hickenlooper	McCarthy
Fulbright	Jordan, N.C.	McGovern
Griffin	Kennedy	Russell
Gruening	Long, Mo.	Young, Ohio
Hayden	Mansfield	

So Mr. JAVITS' amendment, as amended, was agreed to.

Mr. MORSE. Mr. President, I ask unanimous consent that the Senator from New York [Mr. JAVITS] may bring up two technical amendments which, as chairman of the subcommittee, I accept.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send both amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc, which the clerk will state.

The bill clerk proceeded to read the amendments.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendments will be printed in the RECORD.

The amendments of the Senator from New York are as follows:

On page 49, line 10, after "application.", insert the following:

"Payments pursuant to grants under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine."

On page 76, insert the following below line 21:

"STATE SCHOOLS FOR HANDICAPPED IN TERRITORIES

"SEC. 208. Section 103 (a)(4) of the Elementary and Secondary Education Act of 1965 (Title II of P.L. 874, 81st Congress, as amended) is amended by inserting 'except paragraph (5)' after 'this subsection,'."

Mr. JAVITS. Mr. President, these amendments would do the following: One would correct an oversight which omits schools for the handicapped in Puerto Rico under Public Law 89-313 and would include them in the law. The other amendment would permit payment under part D—exemplary program projects of the Vocational Education Act for making advance installment payments with provision for readjustment if there is any over or underpayment. It is just a matter of facilitating the matter; a similar provision is included in part E—special emphasis programs—of the bill.

Mr. MORSE. Mr. President, on behalf of the subcommittee, I accept the amendments and urge that they be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from New York.

The amendments were agreed to.

Mr. MOSS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 10, lines 15 and 16, delete "State Board as defined in section 109" and substitute "Governor".

Mr. MOSS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. MOSS. Mr. President, the amendment is not a complicated one and in view of the limited time I shall try to explain it as simply and as quickly as possible.

The issue, it seems, is clear. The bill calls for the establishment of a national advisory council and for the establishment in each of the several States an advisory council made up of members who are broadly representative of industry, labor, education, and the public, to evaluate vocational programs funded under the act.

The House bill, which was passed, provides that the State advisory council be appointed by the Governor. The pending bill provides that the State board of education—State board, it calls it—shall appoint the advisory council.

My amendment would strike the words that would authorize the State board to make the appointment and lodge that responsibility in the Governor.

The reason I offer the amendment is that the Governor is the chief executive officer of the State, and this is a State body. In him resides the responsibility for administering the affairs of his State. He must be responsible to the people. He is in the best position broadly to consider all the interests of his State and to appoint an advisory council that can accomplish the things set forth for it to do in the pending bill.

Mr. President, the Governor of my State of Utah, Gov. Calvin L. Rampton, is the chairman of the National Governors Conference Committee on Education. This matter has been considered very thoroughly by the Governors. As a matter of fact, Governor Rampton himself traveled all the way to Washington to testify before the House committee when the bill was considered on the House side. He was not able to be in Washington in person to testify before the Senate committee, but he sent a statement, again stating the position of the Governors.

The only question is whether this appointment power be diffused out into the board which in some States is elected, in some States is appointed, and in other States various other means are used for selecting the State board, or whether to charge the chief executive of the State with this responsibility.

I know, at all times, the chief executive of the State is not always of the same political persuasion as the Senator, Representative, or any other official who might be speaking at the time; but, nevertheless, this is his responsibility, and I think that he should place that responsibility there, where it should reside.

I also point out the parallel that under this legislation the National Advisory Council is appointed by the President of the United States, who is the chief executive officer of the United States. The amendment I propose places the duty and responsibility on the Chief Executive of each State just as the duty and responsibility nationally is placed on the Chief Executive of the United States.

Therefore, in accordance with the recommendations of the Governors conference, in accordance with the wording of the House bill, and because I think this will make for better administration, I propose this amendment and urge its adoption.

I reserve the remainder of my time.

Mr. MORSE. Mr. President, I am about to yield to the Senator from Texas [Mr. YARBOROUGH], but I should like very

quickly to make the following arguments against the amendment of the Senator from Utah [Mr. Moss].

This matter has been discussed in committee for some years. We have had the same provision in this bill, and in other bills—the Higher Education Facilities Act and title III of the Elementary and Secondary Education Act.

Some of the State education boards are elected. Some of them are appointed. What the Senator's amendment proposes to do is to put the Governor automatically in charge of the advisory councils.

I am authorized to say that American Vocational Association emphatically opposes the amendment. I think it would be a great mistake for us to adopt the pending amendment. Furthermore, it will be in conference, anyway. I respectfully say to the Senate that it should let the committee come to conference on the matter, in view of the strong case made against the proposal of the Senator from Utah in committee. In 10 minutes time we cannot consider all the details. Senators must take my word for it that we have a strong case against it.

I yield the rest of my time to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I ask that the Senator yield me 5 minutes, reserving some time for himself.

I think it is asking too much for the Senate, in 20 minutes, to tear up a procedure which has proved successful for 51 years in the United States. The first vocational educational act was passed in 1917, the Smith-Hughes Act, after President Woodrow Wilson had appointed a Commission on Vocational Education in 1914.

That first Federal act, the Smith-Hughes Act of 1917, provided that a State board either be designated or created, if a State did not have one, to administer vocational education.

That procedure has been followed successfully since that time. The Smith-Hughes Act, beginning in 1917, providing for vocational education in homemaking, trade and industrial education, agricultural training, teacher training, was expanded and continued through the George-Reed Act of 1929; the George-Ellzey Act of 1934, the George-Dean Act of 1936, and was expanded by the permanent George-Barden Act of 1936.

Each of those acts provided for a board in a State, through which this money was to be spent.

This is an advisory board, it is true, and not the board itself, but I point out that we have had over half a century of successful vocational education programs through the instrumentality of the State boards. Here, for the first time in more than half a century it is proposed to bypass the Boards and authorize the Governors, to appoint the new, State advisory councils.

I am sorry I have to disagree with my friend from Utah. He and I served in the same unit at the beginning of our service in World War II with the ground forces. I think it would be a mistake to give the Governors more power. We have had this procedure in existence for over half a century.

All the States have had experiences in this, but I can best point out the experience in my own State. The first board of education in my State was set up in 1866 by a reconstruction government. When that reconstruction government fell in 1876, one of the provisions the succeeding government took out of the reconstruction constitution was the provision for the board of elections. The Governor, under both the reconstruction constitution and the so-called reform constitution of 1871, was the head of the board until 1878, when the people of Texas reformed the constitution to take the Governor out and set up a State board which would be created in such manner as the State legislature might provide. Three out of the 10 members were appointed by the Governor. After a while, that method proved inefficient; and immediately after World War II, in 1946, the people of Texas amended the constitution to provide that the board of education was to be an elected board in the State.

For 22 years that procedure has worked well. When the Governors dominated those State boards, they were inevitably under political pressure, particularly if the Governor was a member. So the people themselves changed that procedure in my State, and the present system has worked well in my State.

These boards of elections exist in all 50 States and the Virgin Islands, because the Vocational Education Acts have required, since 1917, that there be a State board to administer the Federal vocational education funds, for the purpose of keeping those boards out of politics, for the particular purpose of removing them from the field of politics.

There was a broadening of the Vocational Education Act, from its beginning in 1914, which resulted in the Smith-Hughes Act of 1917, and finally, the Vocational Education Act of 1963. In 1961 President John F. Kennedy appointed a panel of consultants on vocational education. As a result of their work and recommendations, in 1963 Congress passed a broadened Vocational Education Act to apply to all persons, of all ages, in all communities, those who had or had not completed high school, those who had or had not completed formal education, those who were or who were not in a labor field, those whose skills were inadequate, whose skills had fallen into industrial or economic obsolescence. In 1963 the Vocational Education Act was broadened to take in people whatever level of education they had previously attained.

I have heard of no complaint from my State or anywhere else about a system which has worked well without the influence of political appointment by a Governor. It has worked well in my State, as I experienced when I was general counsel for the Texas State Teachers Association for 4 years, and as a young assistant district attorney more than 30 years ago, when I represented the State office of education and the University of Texas. At that time we had a State superintendent for public education. We had a nine-member board appointed by the Governor. Then we had a Reform Act providing for an elected board of education.

The board is given power to appoint an advisory board to study the implications of the 1963 act, which has been carried forward and broadened under the effective leadership of the Senator from Oregon, who has done a tremendous job in education, pursuant to the needs of our economy, as chairman of the Education Subcommittee.

I submit it would be unwise in the extreme to take these 51 years of experience under the Smith-Hughes Act, under the George-Dean, the George-Barden, and the 1963 act, and, in 20 minutes on the floor, tear up the experience we have had under those acts, and tear down the power of the boards which already exist in those States.

Mr. MORSE. Mr. President, will the Senator yield me 30 seconds?

Mr. YARBOROUGH. I yield.

Mr. MORSE. If I may have the attention of the Senator from Utah, I would like to take this bill and go to conference without this amendment in it. I assure the Senator from Utah that when we get into conference I will try to work out a compromise applying to States that do not have elected boards. This amendment simply puts a Governor over an elected board in many States. That is why we have proposed this procedure consistently.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. MORSE. Mr. President, we are through right now.

Mr. MOSS. Mr. President, I think the Senator from Texas gave a very eloquent defense of the boards elected in the various States, but I do not think he was talking to the point here. We are not talking about discontinuing any of the State boards. We are talking about appointing an advisory council.

I submit to the Senate that a board is not the best appointing authority for another board; that if we are going to appoint an advisory council that is going to be independent, and whose functions will be independent once appointed, we must concentrate the authority to obtain that end.

The logical place for that appointing authority to reside is in the chief executive of the State, who appoints the advisory council. Then the advisory council functions, in accordance with the law, to give advice. That is all we are talking about. We are not going to wipe out any boards, override them, or anything else. It is just the advisory council that will be appointed by the Governor.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. PASTORE. Everybody likes to talk about the situation in his own State. In my State, the education commissioner is not elected by the people. He is appointed by the Governor. It will be awkward for me to sidestep the Governor and to say that the commission shall have this responsibility, but we cannot give that authority to the Governor. For that reason, I am going to vote for the amendment.

Mr. MOSS. I thank the Senator. I think we are losing sight of the amendment if we think that in some way it is in derogation of the board. It simply provides that when an advisory council

is appointed, that is the responsibility of the chief executive of the State, and he shall do it.

Mr. MORSE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Oregon has 2 minutes remaining.

Mr. MORSE. I say to the Senator from Rhode Island and the Senator from Utah that the committee is trying to protect those States in which boards are elected and in which the people of the States have made it clear that they want State boards of education to be the decisive force and source for the determination of educational policy.

I have made it clear that since we shall be in conference with the House anyway on this point, I shall seek to work out a compromise so that in States where boards are not elected, the Governors can take the action. But States that have elected boards have already made their position clear; and the American Vocational Association, as I reported a few minutes ago, is strongly against the amendment. In those States it is not desired to have "Governor politics" enter into the educational policy that the States have determined through the voters of the States. The voters have determined what their educational policies shall be as determined by their State boards of education, which are usually bipartisan boards.

So what we seek is to have the committee go to conference without the amendment, and we will work out in conference a modification to make it possible for States that want their Governors to make determinations to do so under the language of the report that we will bring in.

I say most respectfully that the committee has considered this proposal many times in the higher education bill, title II, and the elementary and secondary education bill. The question has been decided many times. To adopt the amendment of the Senator from Utah would cause much trouble in the States.

Mr. MOSS. Mr. President, I think it is logical, if we consider it, to see why there would be more likelihood of political logrolling by a board which sought to appoint an advisory council, and it was necessary to get five, seven, or 13 members, or a majority of the board, to appoint the advisory council. When it comes to appointing an advisory council to the State board, there is no place in which that power should reside other than in the chief executive officer, who is held responsible by all the people, and who is recallable by all the people in the event he does not function properly.

I think that we will be opening a Pandora's box if we provide for an advisory council to be appointed by a board which, in some States, is appointed by the Governor. In my State, the board is elected, but it is elected in a nonpartisan manner. We have no way of knowing whether boards are bipartisan when they are elected in the districts of the States. But the responsible person, the one who guides the destiny of the State, is the Governor.

Many former governors are Members of this body. I think that those Senators, when they reflect back to the time when they were the chief executives of their States, will recall that one of their responsibilities was to appoint officers who the required by statute to be appointed. All we are asking is that advisory boards be appointed by the governors, as the House decided should be done.

Mr. YARBOROUGH. Mr. President, does the Senator from Oregon have any time remaining?

The PRESIDING OFFICER. The time of the Senator from Oregon has expired.

Mr. MOSS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING], and the Senator from Montana [Mr. MANSFIELD] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senators from Alaska [Mr. BARTLETT and [Mr. GRUENING] would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Michigan [Mr. GRIFFIN] is necessarily absent.

The Senator from Iowa [Mr. HICKENLOOPER] is detained on official business.

The result was announced—yeas 20, nays 67, as follows:

[No. 215 Leg.]

YEAS—20

Bayh	Hruska	Pastore
Boggs	Inouye	Percy
Byrd, W. Va.	Long, La.	Randolph
Cooper	McGee	Tower
Curtis	McIntyre	Williams, N.J.
Dirksen	Moss	Williams, Del.
Hollings	Muskie	

NAYS—67

Aiken	Gore	Mundt
Allott	Hansen	Murphy
Anderson	Harris	Nelson
Baker	Hart	Pearson
Bennett	Hartke	Pell
Bible	Hatfield	Prouty
Brewster	Hill	Proxmire
Brooke	Holland	Ribicoff
Burdick	Jackson	Russell
Byrd, Va.	Javits	Scott
Cannon	Jordan, N.C.	Smith
Carlson	Jordan, Idaho	Sparkman
Case	Kuchel	Spong
Church	Lausche	Stennis
Clark	Magnuson	Symington
Cotton	McClellan	Talmadge
Dodd	Metcalf	Thurmond
Dominick	Miller	Tydings
Eastland	Mondale	Yarborough
Ellender	Monroney	Young, N. Dak.
Ervin	Montoya	Young, Ohio
Fannin	Morse	
Fong	Morton	

NOT VOTING—12

Bartlett	Hayden	Mansfield
Fulbright	Hickenlooper	McCarthy
Griffin	Kennedy	McGovern
Gruening	Long, Mo.	Smathers

So Mr. Moss' amendment was rejected.

Mr. MORSE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HILL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE PROGRAM

Mr. BYRD of West Virginia. Mr. President, following the vote on the pending bill, the independent offices appropriations bill will be laid before the Senate.

The legislative appropriations bill conference report will also come up for consideration this afternoon.

It is my understanding from talking with the Senator from Wsiconsin that there is not expected to be any vote on the legislative appropriations bill conference report.

We will not have any vote on the independent offices appropriations bill this afternoon. We hope to have some discussion of it this afternoon.

So, following the disposition of the pending bill, as far as I can see, there will be no more rollcall votes this afternoon.

Mr. DIRKSEN. Mr. President, I would like to ask the distinguished acting majority leader if we finish independent offices appropriations at a reasonable hour tomorrow, what will follow.

Mr. BYRD of West Virginia. I am advised that the public works appropriations bill will follow the action on the independent offices appropriations bill.

Mr. DIRKSEN. What about the farm bill?

Mr. BYRD of West Virginia. That will go over until Monday.

Mr. DIRKSEN. What about the Department of Transportation appropriations bill?

Mr. BYRD of West Virginia. That will be next week.

Mr. DIRKSEN. Mr. President, for the benefit and information of Senators who are present, under these circumstances, is there likely to be a Saturday session? Senators would like to know so that they may arrange their schedules.

Mr. BYRD of West Virginia. The majority leader left this afternoon. I was out of the Chamber when he departed, and I was not advised as to what may transpire in that regard. I am sorry, but I cannot answer the question.

Mr. DIRKSEN. We can dispose of that matter tomorrow.

VOCATIONAL EDUCATION AMENDMENTS OF 1968

The Senate resumed the consideration of the bill (H.R. 18366) to amend the Vocational Education Act of 1963, and for other purposes.

Mr. JACKSON. Mr. President, I have long been concerned about the special needs of vocational education, both in my own State of Washington and across the Nation. It is my firm belief that the Education Committee, under the able leadership of the distinguished senior Senator from the State of Oregon, has developed in S. 3770 a dynamic and prac-

tical program for dealing with the intrinsically complex problems in this area.

I would like today to call my colleagues' attention to several provisions contained in this bill which I believe are of particular significance to the economic and social welfare of this Nation: the sections which provide for special programs aimed at preventing or aiding school dropouts. Section 122(a)(9), "Programs To Serve Dropouts," encourages States to include these programs in their overall State vocational education plans. In addition, section 152(b)(17) specifies that special emphasis funds, awarded to States on a 90–10 matching basis, may be used specifically for dropout prevention programs. I would like to note here that the 90–10 matching provision is designed to enable schools in disadvantaged areas, which might be unable to provide a larger share of matching funds or in-kind services, to qualify as recipients of these critical grants.

Finally, part G of the bill, "Cooperative Vocational Education Programs" provides that priority is to be given to areas with high dropout and youth unemployment rates. Work-study programs funded in this section aim to bridge the gap between education and the world of work, in the hope that schooling which includes meaningful work experience and training will be relevant enough to offer potential dropouts the incentive to stay in school.

Mr. President, the need for these programs is tremendous. It has been estimated that by 1970, this decade will have produced some 7.5 million school dropouts. Currently, 1 million youngsters are dropping out of school each year, and the costs of this problem to society, as well as to these young people, is enormous. Certainly, a higher percentage of our young people today are receiving high school diplomas than ever before. At the turn of this century, only a few students finished eighth grade. By 1942–43, about 50 percent finished high school, and today, over 70 percent of American youth receive high school diplomas.

Steadily decreasing dropout rates, however, are no cause for complacency and the plight of the school dropout continue to be a serious national problem. With the advance of modern technology, young people leaving school before high school graduation are even more disadvantaged in comparison to their graduating classmates than they were a few years ago. These people leave school, unskilled and undereducated, to look for jobs in an employment market that increasingly demands sophisticated skills and more schooling. By 1970, only 5 percent of the jobs available will be unskilled, yet the large number of high school dropouts are prepared for nothing more. The implications for our national economy are obvious: at a time when industries are desperately seeking skilled labor, dropouts are adding to the pool of unskilled and often unemployable job seekers. For every 10 unskilled workers, there are seven skilled jobs open, but unless we can keep more of these youngsters in school or offer them job training, neither they nor American industry can benefit from their availability.

In addition, dropouts add to the drain on Federal resources. Many dropouts, unable to find jobs, find their way to the welfare rolls. In addition, substantial Federal moneys spent on these young people after they have dropped out could be saved by spending smaller amounts of money on programs designed to reach these people before they leave school and prevent them from dropping out. Once they have dropped out, responsible policy demands that we help them, but as prevention is less expensive than the cure, we should concentrate major efforts in keeping our youth in school. Finally, disenchanted and jobless dropouts are often driven to contribute to crime and civil disorder: the President's National Advisory Committee on Civil Disorders stated:

> The most dramatic evidence of the relationship between educational practices and civil disorders lies in the high incidence of riot participation by ghetto youth who have not completed high school.

Mr. President, these are indications that America is paying dearly for the failure of its schools to keep all its youngsters in school through high school graduation. I do not underestimate the personal costs to the dropouts themselves, for these are grave: in purely monetary terms, for example, it has been estimated that an individual with a high school education earns $120,000 more over his lifetime than one who leaves school by the eighth grade. The social and psychological disadvantages incurred by dropping out of school, of course, are often as great or greater than the financial disadvantages.

However, I would like to emphasize that the dropout problem is a grave national problem demanding a national response. That is why I call particular attention to the dropout provisions of S. 3770. The bill before us offers important programs designed to attack this critical American problem. This attack has already begun; a number of Federal programs already underway have taken the first few steps down the long road to solving the dropout problem.

In my own State of Washington, local school districts are demonstrating the successes that can be realized in working with the dropout or potential dropout. The Bremerton School District's "secondary summer school program" is a good example of what can be achieved. Last summer the program, which places heavy emphasis on the freedom of the student to develop his own interests, enrolled a total of 191 potential dropouts. Of this number, only two have subsequently left school.

Numerous other efforts, in the Seattle, Pasco, and Chehalis school districts, could be cited. Suffice it to say that these important programs, following different approaches, have demonstrated that there is a solution to the dropout problem.

These efforts, however successful, are only a first step toward the solution of the overall problem. We are all aware that the dropout problem is not to be solved overnight, but the provisions in S. 3770 represents a move in the right direction.

Mr. SPARKMAN. Mr. President, I rise to speak in favor of S. 3770 and, particularly, to voice my approval of that portion of the vocational education programs which are directed to home economics. I think it would be well for us to pause and consider for a moment the potential impact that a good basic education in home economics can have on the improvement of the standard of living and the basic happiness of every American family.

Home economics education has as its primary function the preparation of youth and adults to meet the responsibilities of home and family life. It is also designed for those who have entered or are preparing to enter gainful employment in an occupation involving knowledge and skills in home economics.

As our society continues to change and to grow, more reasons develop for expanding our home economics educational programs, both in size and in scope.

Technological advances are constantly making more complex the work of the home. Research in child development and psychology has provided increased information about the training and guidance of children.

Approximately 95 percent of all women marry at some point in their lives. Today more than one out of every three workers are women, and almost three out of five working women are married. This points to the need for preparing women for the dual role of homemaker and wage earner.

We have only begun to scratch the surface in providing home economics education for the disadvantaged and low-income families. There are also great needs among the physically and mentally handicapped. Special programs are also needed for newly established households.

It is my understanding that my distinguished colleague, the senior Senator from Texas, sponsored an amendment in committee to provide an increase in the financial support for home economics education. I applaud my colleague's efforts in this regard. It will be necessary to increase this support merely to maintain the present programs due to the increased instructional costs and increased enrollments. Almost every State has far more requests for programs than they can fund. For example, my own State of Alabama has documented requests for 200 positions for additional home economics teachers and programs. Many other States are in similar situations.

There are other facts which, when considered, will again point to the need for increasing support for these programs. I would like to briefly present some of these factors for the consideration of my colleagues:

Population increases alone will be responsible for the need for additional support just to maintain the same level now available. The present program serves 20 percent of the girls in grades 9–12 or 1,231,061 girls. By 1970 it is estimated that this enrollment will have increased to 1,860,000, if we continue to enroll only 20 percent of the high school girls. If we were to serve 30 percent of the girls in these same grades there would be 2,790,000 pupils.

The cost per student in 1966 for vocational home economics was $59.59. By projecting a 10-percent increase in this cost, it would be $69.18 per enrollee. Thus a program to reach 30 percent of the girls in grades 9 to 12 by 1970 would cost approximately $193,012,000 in State and Federal funds.

These figures illustrate what is needed to carry on the minimum program as it is now established. This would not provide for the many other areas in which there are demonstrated needs, such as programs in homemaking and family living, which are needed for adults who are not reached by the secondary school.

The Public Health Service estimates over 1,720,000 new households established with a 2.3-percent increase each year. To provide consumer education and home economics instruction for 20 percent of these at a cost of $10 per student would cost $3,680,000. Newly established homemakers especially need training in managing income, providing food, housing, and child care.

Many States have been successful in reaching women, who could not attend other types of classes, through programs set up in public housing units. In these programs, trained home economists provide instruction in feeding the family, family relationships, child care and guidance, clothing the family, budgeting, home improvement, community leadership, and citizenship responsibilities. There are in 1968 a total of 11,044 housing projects with a total of 7,100,000 dwelling units in the United States. If one full-time teacher were employed in each project it would take 11,044 teachers and cost about $110,440,000.

We also need to provide instruction for parents of students with special needs, for migrant workers, for the elderly—both in nursing homes and in their own homes—and for homemakers leaving mental institutions and penal institutions.

In addition, there is a need to expand resources to improve supervision, teacher education, and development of instructional materials in home economics. Special attention should be given to the training of teachers who will work with the special groups. Conferences, workshops, and institutes are needed to bring teachers up to date and to provide in-service training.

It is increasingly clear that what happens to a young person in the home has as much influence as what happens to him in schools. Thus we need to provide training in homemaking and family life. The more we are able to do in the regular school program, the less we will have to do in the future in remedial programs.

In the entire educational field we are just beginning to realize the need and responsibility for providing continuing education for adults. What we have done to date is only a very small part of what needs to be done. This is especially true in regard to homemaking and family life education. No segment of education offers so much promise of providing a vital and needed service to this generation and especially to succeeding generations.

We have proven by programs conducted in my State and in every part of the country that we can do the job that needs to be done. We have seen that everywhere programs are established, the demand for them is far greater than we are able to provide. But if we are to meet these needs, we must provide the basic framework now for these programs and we must provide the resources to support them. The States have been providing the major support of homemaking programs but need additional Federal support both in funds and program activities.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. MORSE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. GRUENING], and the Senator from Montana [Mr. MANSFIELD] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Missouri [Mr. LONG], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Montana [Mr. MANSFIELD], the Senator from South Dakota [Mr. MCGOVERN], and the Senator from Florida [Mr. SMATHERS] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Michigan [Mr. GRIFFIN] is necessarily absent and, if present and voting, would vote "yea."

The Senator from Iowa [Mr. HICKENLOOPER] is detained on official business.

The result was announced—yeas 88, nays 0, as follows:

[No. 216 Leg.]

YEAS—88

Aiken	Byrd, Va.	Dodd
Allott	Byrd, W. Va.	Dominick
Anderson	Cannon	Eastland
Baker	Carlson	Ellender
Bayh	Case	Ervin
Bennett	Church	Fannin
Bible	Clark	Fong
Boggs	Cooper	Gore
Brewster	Cotton	Hansen
Brooke	Curtis	Harris
Burdick	Dirksen	Hart
Hartke	Metcalf	Ribicoff
Hatfield	Miller	Russell
Hayden	Mondale	Scott
Hill	Monroney	Smith
Holland	Montoya	Sparkman
Hollings	Morse	Spong
Hruska	Morton	Stennis
Inouye	Moss	Symington
Jackson	Mundt	Talmadge
Javits	Murphy	Thurmond
Jordan, N.C.	Muskie	Tower
Jordan, Idaho	Nelson	Tydings
Kuchel	Pastore	Williams, N.J.
Lausche	Pearson	Williams, Del.
Long, La.	Pell	Yarborough
Magnuson	Percy	Young, N. Dak.
McClellan	Prouty	Young, Ohio
McGee	Proxmire	
McIntyre	Randolph	

NAYS—0

NOT VOTING—11

Bartlett	Hickenlooper	McCarthy
Fulbright	Kennedy	McGovern
Griffin	Long, Mo.	Smathers
Gruening	Mansfield	

So the bill (H.R. 18366) was passed.

Mr. MORSE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the bill (H.R. 18366).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MORSE, Mr. YARBOROUGH, Mr. CLARK, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. NELSON, Mr. PROUTY, Mr. JAVITS, Mr. DOMINICK, and Mr. MURPHY conferees on the part of the Senate.

Mr. MORSE. Mr. President, I wish to tell the Senate about a little advice I just received from the Senator from Alabama [Mr. SPARKMAN]. He came over and said, "WAYNE, I once took a bill through the Senate by a unanimous vote. I did not move to reconsider and the next day they came to the floor of the Senate and moved to reconsider and I had to further prolong debate."

Mr. President, on the basis of the advice of one of my teachers in the Senate, I now move to reconsider the vote by which the bill, the Vocational Education Amendments of 1968, was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRIBUTE TO COMMITTEE AND STAFF

Mr. MORSE. Mr. President, the Senate has this week worked its will on and passed two major educational bills, S. 3769 and S. 3770, amendments to higher education and vocational education statutes. This constitutes a record which, in my judgment, can stand comparison to that of many legislative sessions of recent years.

Because these measures were the result of a sincere search on the part of each member of the committee for solutions to problems which would be of benefit to the young men and women of America, it is only proper for me at this time to express my deep sense of personal gratitude and appreciation to those who

worked with me as a team in bringing this to pass.

I wish to thank my majority leader, the distinguished senior Senator from Montana [Mr. MANSFIELD], the forceful junior Senator from Louisiana [Mr. LONG], and the highly competent and able Senator from West Virginia [Mr. BYRD], all of whom at all times, facilitated my work in managing the bill on the floor.

I am deeply appreciative of the splendid cooperation I received from the minority leader, the eloquent senior Senator from Illinois [Mr. DIRKSEN] and the minority whip [Mr. KUCHEL], who for their parts were also equally helpful in working out our floor problems.

However, as in all cooperative tasks, I think I must voice, on behalf of my subcommittee, our collective appreciation for the counsel, wisdom, and guidance provided by that great statesman from the State of Alabama, LISTER HILL who is the beloved chairman of our full committee.

As I indicated earlier, these bills were the result of bipartisan searching for optimal solutions to the problems encountered, and therefore, while I wish to express my tribute to the distinguished Senator from Texas [Mr. YARBOROUGH], for his manifold contributions to both bills, I would be remiss if I did not at the same time express my admiration for the way in which the ranking minority member of the full committee, the distinguished senior Senator from New York [Mr. JAVITS], and the ranking minority member of the subcommittee, the equally distinguished junior Senator from Vermont [Mr. PROUTY], my good friend, worked closely with us in bringing these bills successfully through the floor action.

The bills and our subcommittee and full committee discussions were informed by the wise counsel given us by the senior Senator from West Virginia [Mr. RANDOLPH], whose contributions were especially valuable because of his former service as chairman of the Veterans' Subcommittee. I have elsewhere spoken of his enduring interest in the problems of the small college.

I would also want the record to show my appreciation for the help given by the senior Senator from Pennsylvania [Mr. CLARK], even though upon occasion there developed certain differences of approach between my view and that of the one held by him in his capacity as chairman of the Subcommittee on Employment, Manpower, and Poverty.

I also wish to hail the very substantial contributions made by the distinguished Senator from Colorado and the genial junior Senator from California [Mr. MURPHY], who worked long and hard in perfecting the legislation.

Both the distinguished junior Senator from New Jersey [Mr. WILLIAMS] and our newest member of the subcommittee, the very able junior Senator from Wisconsin [Mr. NELSON], have their imprints on the legislation, as in truth does the distinguished junior Senator from the State of Arizona [Mr. FANNIN], whose work for Indian children is an inspiration to us all.

Mr. President, I have said that the legislation we brought through is a bipartisan team effort, but I sometimes think we forget that there are members of the team whose services to us as Senators are essential if we are to carry out our public responsibilities.

I therefore wish to express my personal tribute to the staff of the committee, both minority and majority, and to the senatorial staff who acted as liaison on this legislation. I particularly want to thank Mr. Stuart McClure, chief clerk of the committee, whose minutes were an invaluable source of reference.

The majority counsel, Mr. Jack Forsythe, and the minority counsel, Mr. Eugene Mittleman, have in this legislation, as in our past bills, made significant contributions to our decisional process.

I also wish to express my appreciation for the work preformed by the staff assigned to the Education Subcommittee, Mr. Charles Lee and Mr. Richard Smith, our newly appointed associate counsel, who worked very closely with the minority clerk, Mr. Roy Millenson. Time after time they presented us with joint staff papers which made our task easier.

I noted particularly on the floor today Mr. Robert Patricelli, of the minority staff who, as usual, made a fine contribution to our understanding of the points raised by his principals on the minority side.

There is one fine thing I have noted about the staff of the full committee. The senior professional members, such as Mr. Robert Harris, Mr. Fred Blackwell, Mr. Steve Wexler, Mr. Michael Kirst, and their junior associates, such as Mr. Charles Carleton, are always willing to lend a hand to the work that must be done in short order. Their counsel and the counsel of the liaison staff assigned by Senators to work with the committee do much to smooth out the difficulties that inevitably arise. Here, I would wish to pay special tribute to the able legislative assistant to Senator PROUTY, Mr. Art Dufresne, and to Mr. Peter Hammond of Senator WILLIAMS' office, and further on the minority side, the assistance rendered by Mr. Joe Carter, of Senator MURPHY'S office, Mr. Richard Speltz and Mr. Jim Miller, of Senator DOMINICK'S office, and their predecessor, Mr. Swede Johnson. Mr. Johnson is a very capable attorney and I wish to express to him at this time my best wishes for a successful professional career. I know the bar of the State of Colorado will be enriched by this services.

I also wish to express my appreciation to Mr. Phil McGance and Miss Nancy Morgan, of Senator RANDOLPH'S office, for their help.

Mr. Tom Bennett, of Senator NELSON'S office, gave an especially valuable contribution to the committee in its report language covering the Teacher Corps provisions of the higher education bill.

Senators are aware, and certainly the senior Senator from Oregon is particularly aware, of the vital contribution to legislation received on every bill made by the dedicated and brilliant staff of Senate legislative counsel, and I wish to pay particular tribute to Mr. Peter LeRoux and Mr. Blair Crownover who worked with us from subcommittee through floor action, and whose drafting skills enabled our concepts to be set forth with lucidity and precision.

The work of the professional staff however, is only as good as the work of the secretaries whose patient and dedicated service is often overlooked. I want to salute for their patience, diligence, and encouragement, the hard working and efficient secretaries attached to the subcommittee, Miss Margaret Porcher, Mrs. Eleanor Forsythe, and Miss Kathryn Fletcher. They and Miss Margery Whittaker the assistant chief clerk of the committee did much to make our executive work session efficient operations.

I would also be remiss, Mr. President, if I did not acknowledge the very helpful services provided by the Department of Health, Education, and Welfare through the office of the Honorable Ralph Huitt, and in particular those provided by Dr. Samuel Halperin. The office of general counsel of the Department of Health, Education, and Welfare whose representative was Mr. Theodore Ellenbogen, gave invaluable assistance in the preparation of the section-by-section analyses and Cordon prints of our reports.

The Office of Legislation of the Office of Education under the able direction of Dr. Albert Alford, furnished us with the professional services of his extremely competent staff. I am particularly appreciative of the legal services provided by Mr. Richard Johnson and Mrs. Jean Frolicher, and the information in the vocational education field supplied by Miss Jan Pittman did much to enrich our understanding of the problems in this area.

In the preparation which goes into legislation brought to the floor there are technical services provided by highly skilled craftsmen. These are our printing clerks, both those on the committee and their associates who work in the Government Printing Office. I would, therefore, want publicly to thank, for excellent work produced under pressure of time, the Senate printing clerk, Mr. Tom Gay, Mr. Steve Coffey, and Mr. Bill Otley of the committee staff and Mr. Jack Sapp of the Government Printing Office.

Finally, and by no means least, I should like to have the RECORD show my personal appreciation for the work performed by a young Oregonian who is assigned to my office and whom I have detailed to work with the Education Subcommittee. Mr. William Lebov is a second-year law student from Willamette University in Salem, and from what I have observed and from what I have been told, I foresee that he, too, will have a distinguished career as a lawyer, because his conscientious work is a model of what ought to be done and proves the value of this type of work-study.

COMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Government Operations be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT OFFICES AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATION BILL, 1969

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending business, Calendar No. 1354, H.R. 17023. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 17023), an act making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1969, and for other purposes.

The Senate proceeded to consider the bill.

DEATH OF REPRESENTATIVE JOE R. POOL

Mr. YARBOROUGH. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 378

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. Joe R. Pool, late a Representative from the State of Texas.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 378) was considered and agreed to.

AUTHORIZATION FOR CLERK OF HOUSE OF REPRESENTATIVES TO MAKE CHANGES IN THE ENROLLMENT OF H.R. 9098

Mr. BYRD of West Virginia. Mr. President, I ask that the Presiding Officer lay before the Senate a message from the House of Representatives on House Concurrent Resolution 798, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The Chair lays before the Senate a concurrent resolution from the House of Representatives, which will be stated.

The legislative clerk read as follows:

H. CON. RES. 798

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 9098) to revise the boundaries of the Badlands National Monument in the State of South Dakota, to authorize exchanges of land manually beneficial to the Oglala Sioux Tribe and the United States, and for other purposes, is authorized and directed to make the following change, viz: In lieu of the language appearing on page 4, lines 9 through 21 of the House engrossed bill and the Senate amendment thereto, insert the following:

"(b) Any former Indian or non-Indian owner of a tract of such land, whether title was held in trust or fee, may purchase such tract from the Secretary of the Interior under the following terms and conditions:

"(1) The purchase price to a former Indian owner shall be the total amount paid by the United States to acquire such tract and all interests therein, plus interest thereon from the date of acquisition at a rate determined by the Secretary of the Treasury taking into consideration the average market yield of all outstanding marketable obligations of the United States at the time the tract was acquired by the United States, adjusted to the nearest one-eighth of 1 per centum. The purchase price to a former non-Indian owner shall be the present fair market value of the tract as determined by the Secretary of the Interior."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 798) was agreed to.

EXTENSION OF STATE TECHNICAL SERVICES ACT OF 1965

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3245.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3245) to extend for an additional 3 years the authorization of appropriations under the State Technical Services Act of 1965, which was, strike out all after the enacting clause, and insert:

That section 10 of the State Technical Services Act of 1965 (15 U.S.C. 1360; 79 Stat. 682) is amended by striking the period at the end of subsection (a) and inserting the following: "$6,600,000 for the fiscal year ending June 30, 1969; $10,0000,000 for the fiscal year ending June 30, 1970; $10,000,000 for the fiscal year ending June 30, 1971."

Mr. SCOTT. Mr. President, the bill extends State Technical Services Act for 3 years. The only difference is the 1969 authorization. The House figure is $6.6 million and the Senate figure is $7 million.

I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Pennsylvania.

The motion was agreed to.

LEGISLATIVE BRANCH APPROPRIATION BILL, 1969—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 18038) making appropriations for the legislative branch for the fiscal year ending June 30, 1969, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of July 16, 1968, p. 21539, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. PROXMIRE. Mr. President, the final amount of this bill as agreed to in conference is $298,151,396. This is the same figure as the total of the bill as it passed the Senate. The bill was explained in detail and debated on the floor of the Senate on July 9.

The only variations in the conference bill from the bill which passed the Senate are in connection with the salary increases for the police, concerning which the conference committee wrote into the provision that the increases were effective for those officers who have completed the U.S. Capitol Police force training program and for those who complete it in the future.

The House also added to the Senate amendment on the same subject authority to pay overtime pay for police under the House in accordance with House Concurrent Resolution 785, which has passed both bodies.

Mr. President, I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, as the Senate considers the $400,000 appropriation to finance the inauguration of the next President of the United States, a bit of history might be of interest.

In 1944, the late Harry Flood Byrd, Sr., was chairman of the Senate Rules Committee, and as such was chairman of the Joint Congressional Inaugural Committee. Franklin D. Roosevelt was seeking his fourth term.

Plans were being made for the inaugural ceremonies for January 1945.

Senator Byrd advised President Roosevelt that as chairman of the Inaugural Committee he wanted to cooperate fully with the President and would introduce legislation appropriating whatever amount of money the President desired for inaugural ceremonies. The President notified Senator Byrd that the amount of money to be appropriated was a decision for the Congress to make, whereupon Senator Byrd recommended a figure of $100,000.

Later, President Roosevelt said he had no idea of spending such a vast amount of money and that he would teach the economy-minded Virginia Senator how to economize. He said he planned to spend only $25,000.

Senator Byrd then withdrew his recommendation for $100,000 and submitted a $25,000 figure, which was approved by the Congress on September 23, 1944.

All of this occurred before the election.

In November of 1944, the present senior Senator from Virginia was a lieutenant commander in the Navy, assigned as executive officer of a patrol bombing squadron of four-engine seaplanes. I was in California—San Diego—with my squadron awaiting departure for a second tour of duty in the Pacific.

The late Senator Byrd, Sr., flew to California to be with me for a few days and stayed with Mrs. Byrd and me at our apartment at Coronado near San Diego.

While there, Senator Byrd received a long-distance telephone call from Gen. Edwin M. "Pa" Watson, a presidential aide at the White House. General Watson said they had reconsidered the question of inaugural expense and needed an an amount greater than $25,000. Senator Byrd replied that he would be glad to request of the Congress any amount the President felt he would need, if the President would write him a letter stating how much money he would like to have.

Two days after the first phone call, General Watson telephoned Senator Byrd again to say he had discussed the matter with President Roosevelt and that the President was not willing to write such a letter, as he felt Senator Byrd might publish it. Senator Byrd replied that the President need not be in doubt, that most certainly he would publish it, and make it a part of the CONGRESSIONAL RECORD.

Another day passed and another long-distance call came from General Watson. He said it was urgent that plans proceed for the inauguration and that he hoped Senator Byrd would not insist upon a letter from the President. Senator Byrd did insist.

The next day another call came from General Watson, saying it was urgent that Senator Byrd return to Washington immediately in order that inaugural plans might be firmed. Senator Byrd replied that while it was inconvenient to do so because he would like to remain with his son as long as possible, he nevertheless would return, as he wanted to cooperate fully with the President.

Senator Byrd left California several days prior to my departure from Saipan in the Marianas.

Upon returning to Washington, Senator Byrd remained firm in his insistence that a letter must be written by the President. The President remained firm that he would give no such letter.

Thus, two strong-willed men locked horns, and as a result the Franklin D. Roosevelt fourth term inauguration was perhaps the most economical in the history of our Nation. The result was a simple ceremony, not at the Capitol as is customary, but on the south portico of the White House.

The records show that of the $25,000 congressional appropriation, only $526.02 was used, with $24,473.98 returned to the Treasury.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD a tabulation which shows the amount of the budget estimates, the House and Senate versions of the bill, and the final conference agreement in each instance.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL, H.R. 18038

Item	Budget estimates of new (obligational) authority, 1969	House bill	Senate bill	Conference action	Increase (+) or decrease (−), conference action compared with— Budget estimates of new (obligational) authority, 1969	House bill	Senate bill
SENATE							
Vice President and Senators							
Compensation of the Vice President and Senators	$3,304,295		$3,304,295	$3,304,295		+$3,304,295	
Mileage, President of the Senate and Senators	58,370		58,370	58,370		+58,370	
Expense allowance, Vice President, majority and minority leaders	16,000		16,000	16,000		+16,000	
Total, Vice President and Senators	3,378,665		3,378,665	3,378,665		+3,378,665	
Salaries, Officers and Employees							
Office of the Vice President	245,528		245,528	245,528		+245,528	
Chaplain	16,732		16,732	16,732		+16,732	
Office of the Secretary	1,509,828		1,509,828	1,509,828		+1,509,828	
Committee employees	3,640,996		3,640,996	3,640,996		+3,640,996	
Conference majority	107,912		107,912	107,912		+107,912	
Conference, minority	107,912		107,912	107,912		+107,912	
Administrative and clerical assistants to Senators	21,279,720		21,279,720	21,279,720		+21,279,720	
Office of the Sergeant at Arms	4,601,608		4,601,608	4,601,608		+4,601,608	
Offices of the secretaries to the majority and minority	180,480		180,480	180,480		+180,480	
Offices of the majority and minority whips	39,856		39,856	39,856		+39,856	
Total, salaries, officers and employees	31,730,572		31,730,572	31,730,572		+31,730,572	
Contingent Expenses							
Senate policy committees	440,300		480,300	480,300	+$40,000	+480,300	
Automobiles and maintenance	48,700		48,700	48,700		+48,700	
Furniture	31,190		31,190	31,190		+31,190	
Expenses of inquiries and investigations	6,221,585		6,331,585	6,221,585		+6,221,585	
Folding documents	43,790		43,790	43,790		+43,790	
Mail transportation (motor vehicles)	16,560		16,560	16,560		+16,560	
Miscellaneous items	4,426,890		4,348,335	4,348,335	−78,555	+4,348,335	
Postage	109,020		109,020	109,020		+109,020	
Stationery	316,200		316,200	316,200		+316,200	
Communications	15,150		15,150	15,150		+15,150	
Total, contingent expenses	11,669,385		11,630,830	11,630,830	−38,555	+11,630,380	
Other, Senate							
Legislative counsel	342,180		342,180	342,180		+342,180	
Payment to widow of Robert F. Kennedy							
Total, other	342,180		342,180	342,180		+342,180	
Total, Senate	[1]47,120,802		47,082,247	47,082,247	−38,555	+47,082,247	
HOUSE OF REPRESENTATIVES							
Salaries, Mileage for the Members, and Expense Allowance of the Speaker							
Compensation of Members	14,160,700	$14,160,700	14,160,700	14,160,700			
Mileage of Members and expense allowance of the Speaker	200,000	200,000	200,000	200,000			
Total	14,360,700	14,360,700	14,360,700	14,360,700			
Salaries, officers and employees							
Office of the Speaker	139,830	139,830	139,830	139,830			
Office of the Parliamentarian	121,485	121,485	121,485	121,485			
Compilation of precedents of House of Representatives	12,540	12,540	12,540	12,540			
Office of the Chaplain	16,715	16,715	16,715	16,715			
Office of the Clerk	2,009,945	1,940,000	1,940,000	1,940,000	−69,945		
Office of the Sergeant at Arms	2,210,525	2,160,000	2,160,000	2,160,000	−50,525		

See footnotes at end of table.

SUMMARY OF THE BILL, H.R. 18038—Continued

Item	Budget estimates of new (obligational) authority, 1969	House bill	Senate bill	Conference action	Increase (+) or decrease (−), conference action compared with— Budget estimates of new (obligational) authority, 1969	House bill	Senate bill
HOUSE OF REPRESENTATIVES—Continued							
Salaries, officers and employees—Continued							
Office of the Doorkeeper	$2,045,940	$2,000,000	$2,000,000	$2,000,000	−$45,940		
Office of the Postmaster	571,235	571,235	571,235	571,235			
Committee employees (standing roll)	4,810,000	4,800,000	4,800,000	4,800,000	−10,000		
Special and minority employees (several items)	612,895	612,895	612,895	612,895			
Official reporters of debates	289,570	289,570	289,570	289,570			
Official reporters to committees	286,255	286,255	286,255	286,255			
Committee on Appropriations (investigations)	966,625	890,000	890,000	890,000	−76,625		
Office of the Legislative Counsel	378,290	378,290	378,290	378,290			
Total, salaries, officers and employees	14,471,850	14,218,815	14,218,815	14,218,815	−253,035		
Members' Clerk Hire							
Clerk hire	38,142,500	38,142,500	38,142,500	38,142,500			
Contingent Expenses of the House							
Furniture	250,000	[2] (250,000)	[2] (250,000)	[3] (250,000)	−250,000		
Miscellaneous items	8,965,955	8,000,000	8,000,000	8,000,000	−965,955		
Reporting hearings	223,000	223,000	223,000	223,000			
Special and select committees	4,865,500	4,821,000	4,821,000	4,821,000	−44,500		
Office of Coordinator of Information							
Telegraph and telephone	4,032,000	3,500,000	3,500,000	3,500,000	−532,000		
Stationery (revolving fund)	1,308,000	1,308,000	1,308,000	1,308,000			
Postage stamp allowances	320,390	320,390	320,390	320,390			
Revision of laws	29,260	29,260	29,260	29,260			
Speaker's automobile	13,585	13,585	13,585	13,585			
Majority leader's automobile	13,585	13,585	13,585	13,585			
Minority leader's automobile	13,585	13,585	13,585	13,585			
New edition, District of Columbia Code	75,000	75,000	75,000	75,000			
Payment to widow of deceased Member							
Total, contingent expenses	20,109,860	18,317,405	18,317,405	18,317,405	−1,792,455		
Total, House of Representatives	87,084,910	85,039,420	85,039,420	85,039,420	−2,045,490		
JOINT ITEMS							
Joint Committee on Reduction of Federal Expenditures	40,600	55,000	55,000	55,000	+14,400		
Contingent Expenses of the Senate							
Joint Economic Committee	417,150	417,150	417,150	417,150			
Joint Committee on Atomic Energy	380,785	380,785	380,785	380,785			
Joint Committee on Printing	198,440	198,440	198,440	198,440			
Joint Committee on Inaugural Ceremonies, 1969	400,000		400,000	400,000		+$400,000	
Contingent Expenses of the House							
Joint Committee on Internal Revenue Taxation	531,905	531,905	531,905	531,905			
Joint Committee on Defense Production	91,370	91,370	91,370	91,370			
Office of the Attending Physician							
Medical supplies, equipment, and expenses	56,000	56,000	56,000	56,000			
Capitol Police							
General expenses	102,837	100,000	100,000	100,000	−2,837		
Capitol Police Board	951,255	900,000	900,000	900,000	−51,255		
Education of Pages							
Education of congressional pages and pages of the Supreme Court	94,579	94,579	94,579	94,579			
Official Mail Costs							
Expenses	9,787,000	9,473,000	9,473,000	9,473,000	−314,000		
Statements of Appropriations							
Preparation	13,000	13,000	13,000	13,000			
Total, joint items	13,064,921	12,311,229	12,711,229	12,711,229	−353,692	+400,000	
ARCHITECT OF THE CAPITOL							
Office of the Architect of the Capitol							
Salaries	744,000	739,000	739,000	739,000	−5,000		
Contingent expenses	50,000	50,000	50,000	50,000			
Capitol Building and Grounds							
Capitol buildings	2,010,200	1,779,600	2,010,200	2,010,200		+230,600	
Extension of the Capitol (transfer from liquidation cash—Expansion of facilities, Capitol Power Plant)							
Capitol grounds	766,700	766,700	766,700	766,700			
Reappropriation							
Senate office buildings	2,901,900		2,878,900	2,878,900	−23,000	+2,878,900	
Extension of additional Senate Office Building site (acquisition of site)	1,250,000				−1,250,000		
Senate garage	62,300		62,300	62,300			
House office buildings	4,845,600	4,845,600	4,845,600	4,845,600			
Acquisition of property, construction, and equipment, additional House Office Building (liquidation of contract authorization)	(6,975,000)	(527,000)	(527,000)	(527,000)	(−6,448,000)		
Capitol Power Plant (operation)	2,927,000	2,927,000	2,927,000	2,927,000			
Expansion of facilities, Capitol Power Plant (liquidation of contract authorization)							

See footnotes at end of table.

SUMMARY OF THE BILL, H.R. 18038—Continued

Item	Budget estimates of new (obligational) authority, 1969	House bill	Senate bill	Conference action	Increase (+) or decrease (−), conference action compared with— Budget estimates of new (obligational) authority, 1969	House bill	Senate bill
ARCHITECT OF THE CAPITOL—Continued							
Library Building and Grounds							
Structural and mechanical care	$985,000	$985,000	$985,000	$985,000			
Furniture and furnishings	382,000	350,000	350,000	350,000	−$32,000		
Library of Congress James Madison Memorial Building	2,800,000				−2,800,000		
Total, Architect of the Capitol	19,724,700	12,442,900	15,614,700	15,614,700	−4,110,000	+$3,171,800	
BOTANIC GARDEN							
Salaries and expenses	568,000	565,000	565,000	565,000	−3,000		
Total, Architect of the Capitol, including Botanic Garden	20,292,700	13,007,900	16,179,700	16,179,700	−4,113,000	+$3,171,800	
LIBRARY OF CONGRESS							
Salaries and expenses	17,545,000	17,240,000	17,240,000	17,240,000	−305,000		
Transfer from HEW	(478,000)	(478,000)	(478,000)	(478,000)			
Copyright Office, salaries and expenses	2,978,000	2,878,000	2,878,000	2,878,000	−100,000		
Legislative Reference Service, salaries and expenses	3,675,000	3,650,000	3,650,000	3,650,000	−25,000		
Distribution of catalog cards, salaries and expenses	7,338,000	7,300,000	7,300,000	7,300,000	−38,000		
Books for the general collections	765,000	665,000	665,000	665,000	−100,000		
Books for the law library	125,000	125,000	125,000	125,000			
Books for the blind and physically handicapped, salaries and expenses	6,668,000	6,668,000	6,668,000	6,668,000			
Organizing and microfilming the papers of the Presidents, salaries and expenses	(2)	112,800	112,800	112,800	+112,800		
Collection and distribution of library materials (special foreign currency program):							
Payments in Treasury-owned foreign currencies	2,439,500	1,807,600	1,807,600	1,807,600	−631,900		
U.S. dollars	264,500	192,400	192,400	192,400	−54,100		
Total, Library of Congress	41,780,000	40,638,800	40,638,800	40,638,800	−1,141,200		
GOVERNMENT PRINTING OFFICE							
Printing and binding	31,200,000	31,000,000	31,000,000	31,000,000	−200,000		
Office of Superintendent of Documents, salaries and expenses	8,112,200	8,000,000	8,000,000	8,000,000	−112,200		
Selection of site, general plans, and designs of buildings	2,500,000				−2,500,000		
Total, Government Printing Office	41,812,200	39,000,000	39,000,000	39,000,000	−2,812,200		
GENERAL ACCOUNTING OFFICE							
Salaries and expenses	57,742,000	57,500,000	57,500,000	57,500,000	−242,000		
RECAPITULATION							
Grand total, new budget (obligational) authority	308,897,533	247,497,349	298,151,396	298,151,396	−10,746,137	[4] +50,654,047	
Consisting of—							
1. Appropriations	308,897,533	247,497,349	298,151,396	298,151,396	−10,746,137	+50,654,047	
2. Reappropriations							
3. Transfer from appropriation for liquidation of contract authorization							
Memoranda—							
1. Appropriation to liquidate contract authorization	(6,975,000)	(527,000)	(527,000)	(527,000)	(−6,448,000)		
2. Appropriations, including appropriations for liquidation of contract authorizations	(315,872,533)	(248,024,349)	(298,678,396)	(298,678,396)	(−17,194,137)	(+50,654,047)	
3. Grand total, new budget (obligational) authority and appropriation to liquidate contract authorization	(315,872,533)	(248,024,349)	(298,678,396)	(298,678,396)	(−17,194,137)	(+50,654,047)	

[1] Includes $1,030,305 submitted in Senate documents.
[2] To be derived by transfer from funds previously appropriated under this head and which remain available until expended.
[3] Transferred in the 1969 estimate to "Salaries and expenses," Library of Congress.
[4] Includes $50,423,447 not considered by House.

Mr. WILLIAMS of Delaware. Mr. President, I should like to ask the Senator from Wisconsin, do I understand correctly that in the conference report they retain the Senate amendment which would require, from this time forward, that any unused portion of a stationery allowance for Senators will automatically revert to the Federal Treasury?

Mr. PROXMIRE. The Senator from Delaware is correct. The Williams amendment is retained. It is a great tribute to him that this has been achieved.

Mr. WILLIAMS of Delaware. I want to thank the Senator from Wisconsin for his support in getting this amendment approved.

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 28 and 33.

The motion was agreed to.

AMENDMENT OF SECURITIES EXCHANGE ACT OF 1934

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 160.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 160) to amend the Securities Exchange Act of 1934 to authorize an investigation of the effect on the securities markets of the operation of institutional investors, which was, strike out all after the resolving clause and insert:

That section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by adding at the end thereof the following:

"(e) (1) The Commission is authorized and directed to make a study and investigation of the purchase, sale, and holding of securities by institutional investors of all types (including, but not limited to, banks, insurance companies, mutual funds, employee pension and welfare funds, and foundation and college endowments) in order to determine the effect of such purchases, sales, and holdings upon (A) the maintenance of fair and orderly securities markets, (B) the stability of such markets, both in general and for individual securities, (C) the interests of the issuers of such securities, and (D) the interests of the public, in order that the Congress may determine what measures, if any, may be necessary and appropriate in the public interest and for the protection of investors. The Commission shall report to the Congress, on or before September 1, 1969, the results of its study and investigation, together with its recommendations, including such recommendations for legislation as it deems advisable.

"(2) For the purposes of the study and investigation authorized by this subsection, the Commission shall have all the power and authority which it would have if such investigation were being conducted pursuant to section 21 of this Act. The Commission is authorized to appoint, without regard

to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such personnel as the Commission deems advisable to carry out the study and investigation authorized by this subsection, but no such rate shall exceed the per annum rate in effect for a GS–18.

"(3) In connection with the study authorized by this subsection, the Commission shall consult with representatives of various classes of institutional investors, members of the securities industry, representatives of other Government agencies, and other interested persons. The Commission shall also consult with an advisory committee which it shall establish for the purpose of advising and consulting with the Commission on a regular basis on matters coming within the purview of such study.

"(4) There is authorized to be appropriated not to exceed $875,000 for the study and investigation authorized by this subsection."

Mr. SPARKMAN. Mr. President, I move that the Senate agree to the House amendment.

The motion was agreed to.

AMENDMENT OF SECURITIES EXCHANGE ACT OF 1934

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1299.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1299) to amend the Securities Exchange Act of 1934 to permit regulation of the amount of credit that may be extended and maintained with respect to securities that are not registered on a national securities exchange, which was, strike out all after the enacting clause, and insert:

That section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended—

(1) by striking out "registered on a national securities exchange" in subsection (a);

(2) by amending subsection (c) to read as follows:

"(c) It shall be unlawful for any member of a national securities exchange or any broker or dealer, directly or indirectly, to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer—

"(1) on any security (other than an exempted security), in contravention of the rules and regulations which the Board of Governors of the Federal Reserve System shall prescribe under subsections (a) and (b) of this section;

"(2) without collateral or on any collateral other than securities, except in accordance with such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe (A) to permit under specified conditions and for a limited period any such member, broker, or dealer to maintain credit initially extended in conformity with the rules and regulations of the Board of Governors of the Federal Reserve System, and (B) to permit the extension or maintenance of credit in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of paragraph (1) of this subsection."

(3) by striking out "registered on a national securities exchange" in the first sentence of subsection (d) and "registered on national securities exchanges" in the second sentence of that subsection.

Mr. SPARKMAN. Mr. President, I move that the Senate agree to the House amendment.

The motion was agreed to.

NEW GUN CONTROL LAWS FOR CONNECTICUT

Mr. DODD. Mr. President, I was in my home State of Connecticut yesterday to present to the interim committee of the judiciary of the State legislature my position concerning new gun control laws for Connecticut.

I have consistently made my position on firearms laws clear, and my colleagues know full well that I have worked for years for better Federal laws on this subject.

And we are now to the point where we have good controls enacted on the interstate commerce in handguns and I believe we are within a few days of enacting good controls on long arms as well.

In each session of Congress in which firearms control legislation has been discussed we have patiently and willingly heard, often at great length, the advocates and the opponents of whatever bills were before us. And we listened patiently and with respect for the right of each witness to represent himself and others for whom he came to speak.

Such hearings are essential to our democratic processes.

But erosion of the democratic method seems evident at least in some of our State legislatures. Not because the men entrusted to run government and enact legislation do not care to preserve this process. But because they are overwhelmed, overrun, invaded, and outshouted by some ill-mannered, irrational citizens who are organized for the single purpose of creating confusion and chaos in the legislative halls.

So, while I was in Connecticut to speak out for the need of controls on firearms, within minutes I was tempted to borrow the gun lobby's slogan and speak out for the need of controls on people. The difference between an orderly hearing of citizens in the halls of the U.S. Senate and between the shouting and booing of a collection of frenzied gun nuts is the difference between the democratic process and a mob.

I now speak not on the need for firearms controls.

I now warn of the subversion of our national system by those who degrade our free democratic process whenever their license to guns is questioned, much less controlled for the benefit of their fellow citizens.

I rise now to decry the crude conduct of the mob which shouted down my presentation yesterday.

There was no open hearing in the sense that all sides were heard fairly.

The hearing room was packed, and deliberately so, by the admission of the individual who was in charge of collecting the mob of 500 and of directing their actions.

I charge the National Rifle Association with the very offense they have laid against all who fear for the lives of their families and neighbors in a land where guns are available to everyone who asks.

Mob rule and imposition of law by coercion and uncontrollable violence were the techniques used by the gun mob yesterday to block my plea for good legislation.

Mob rule and imposition of law by coercion and subversion of the stated goals of the bills were the techniques used by the gun lobby yesterday in Connecticut.

Whom should we accuse of defiling our Constitution?

Whom should we accuse of eroding the goals for which this Nation was founded?

Whom should we accuse of putting their selfish interests ahead of the good of a nation of good citizens?

So that all will know across this country and will recognize these mobs when they appear again to derail good laws, I will describe them more carefully.

Yesterday they wore everyday faces and everyday plaid sport jackets, mostly in disarray since it was a stifling hot and humid day in the packed hearing room. They jeered and booed, even before the witnesses could make their presentations. They interrupted with insults and shouts to "go home."

Strange, that they should challenge the right of a citizen to comment on the proposed laws of his own State.

They shouted down not only a chosen representative to their Federal Government, but they had the additional bad manners to shout down and insult two young ladies who also attempted to present a petition containing the views of 7,000 people on the need for more gun laws and they insulted every other witness who appeared in favor of stronger gun control law in Connecticut.

They did have one identifying characteristic in common, besides their abominable behavior, and that was their association with the National Rifle Association and the gunrunners.

They were present at the urging and as the result of the organizing efforts of their local leader, Mr. James E. Murray III, who coached their abusive remarks and who arranged for most of them to be at the hearing. Mr. Murray said yesterday:

Yeah, they are packed in, and they have orders to stay there until I tell them to leave.

A simple recipe for anarchy is not the enactment and enforcement of strong firearms control laws but, rather, a mob, fed inflammatory and emotional misinformation, whipped into action by a leader, and pushed into a legislative hall to obscure, obstruct, and obliterate if so inclined. And all under the guise of "a great patriotic organization," as their national leaders have told us.

Yesterday's sorry performance displayed for the people of Connecticut the true nature of these "gun nuts."

It was, in short, the worst public hearing in the history of the Connecticut Legislature.

This yowling mob that discourteously interrupted witnesses with hisses and catcalls and yells, reflecting the worst of the slogans the gun lobby and the gunrunners have been spreading for years, was a classic demonstration of what happens when the gunrunners and lobbyists have their way and wreck a pub-

lic discussion of firearms laws in State, city, and town councils across this Nation.

There are many James Murrays with their bands of marauders traveling about terrorizing officials and the States forcing their own views on the remainder of the public. It is for that reason and that reason alone that 30 years after it was proposed to pass uniform State firearms control laws that there are virtually none on the books.

Every serious attempt to pass such a law is shouted down by the likes of the lobby-led and lobby-inflamed mob that ruled Tuesday in the legislative halls of the State of Connecticut.

James Murray's marauders yesterday were consistent with the tactics of their leaders in the NRA and the gunrunners who have led in this year's long fight against the sane and workable firearms laws which the public demands.

The bad manners and the poor taste of the hooters and catcallers in Connecticut yesterday were not any different than the highly financed and widely distributed and publicly admitted lies spread by the National Rifle Association and its top officers.

Nor are Murray's men any more brazen than the National Rifle Association leaders who sit in a Senate hearing and agree publicly to correct those lies, then immediately forget their promise.

Those who hissed and shouted down anyone who did not agree with them yesterday in Connecticut had the moral leadership of the gunrunners who financed the National Shooting Sports Foundation in its years-long campaign of lies and distortions against strong firearms laws.

The blatant, black, boldfaced lies printed in newspapers across this country were done so at the behest of Charles Dickey, the executive director of the National Shooting Sports Foundation, but everyone of its members are responsible for his actions.

But this is the philosophy and the code of the gunrunners, and it permeates everything they do.

In their own witless belief that they could lie to and manipulate the American people forever, they have used their massive wealth and their hired publicity departments to lie and to twist and to distort the truth in hopes that all of the American people would buy it.

But I believe yesterday in Connecticut this tactic backfired on them. They were caught, fullface, on the television cameras with their hoots, hisses and catcalls.

I would now like to discuss a little more the leader of this pack of storm troopers, Mr. James E. Murray III. Just a few months ago, in a bylined article in the American Rifleman, Murray described the fight he led to water down the Connecticut State firearms law.

He spoke of the "close cooperation between the National Rifle Association, legislators, assorted rifle and pistol clubs."

In his legislative fight the national office of the National Rifle Association was represented by Woodson D. Scott, who is next in line for the presidency of that organization.

In that article in the January 1968 edition of the American Rifleman, James Murray gave this idealized description of the battle these spokesmen for the gunrunners waged:

> . . . It requires hard work and experience to mold an integrated team, but the alternative is the loss of our freedom.
>
> . . . We stood—and are still standing—shoulder-to-shoulder in the fight for the freedoms that we are obligated to pass on to the next generation.

Hopefully, one of the freedoms of which Mr. Murray spoke was not the freedom of a minority to force mob rule on a public meeting of a legislature.

In that same article Murray pointed out the effectiveness of the Connecticut State Rifle and Revolver Association, a NRA-affiliated club in turning a "bad" gun bill into a "good" gun bill.

Murray crowed that their legislative efforts are well organized and that the importance of this "tightly knit" organization was recognized when it was confronted with a proposed gun law in Connecticut, that was somewhat similar to the law that had been enacted in New Jersey.

Murray indicated:

> Time was against us. If certain news media had learned of the pending bill, and had made it a major issue, the battle might have been lost before it had even begun.

He went on to underscore the importance of the fact that because of built-in lines of communication for many years with legislators, staff, and workers, "bills affecting firearms legislation," according to Murray, are reported to a man who is a past president, a past legislative director, and member of the legislative committee of the Connecticut State Rifle and Revolver Association and presently a board member of Ye Connecticut Gun Guild.

If this is not a prime example of just how the National Rifle Association and its affiliated State organizations go about scuttling State gun controls that would be effective, I do not know what is.

In paraphrasing Murray's own words, the key to success is to insure that the news media does not have the opportunity to inform the public of the truth and merits of the issue and then to act quickly to push their own proposals through an uninformed or misinformed legislature.

And so yesterday I appeared before an interim committee of the Connecticut Legislature to present my views on the need for enactment of further gun controls in Connecticut. But this meant that the people of Connecticut might be informed of the facts of gun violence. So, Mr. Murray and his followers, who had packed the State capitol, created such a boisterous scene, that it was virtually impossible for me to give my statement.

This is sheer lawlessness.

It is indeed unfortunate when Mr. Murray and his cohorts, in their collective ignorance and bad taste, attempt to "hoot down" a witness, who opposes their view and who does so with objective facts and rationale.

Clearly those who share Mr. Murray's views and who echoed his sentiments in a loud and clamoring collective voice, having no justification for their position of "guns for everybody" resorted to the only tactics left to them, which are now a matter of public record.

As a result of yesterday's outrageous conduct, I have today written Governor Dempsey asking him to take appropriate steps to have Mr. Murray removed as chairman of the Connecticut State Board of Firearms Permit Examiners.

Mr. President, I ask unanimous consent that a copy of my letter to Governor Dempsey be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 17, 1968.

Hon. JOHN DEMPSEY,
Governor for the State of Connecticut,
Hartford, Conn.

DEAR GOVERNOR DEMPSEY: I am writing to you on a matter of great concern to me and many other people, and which I am sure will be of interest to you.

I was invited to appear before a hearing on gun control legislation before the Interim Judiciary Committee of the Connecticut General Assembly on July 16, 1968.

I invited James V. Bennett, the respected former Director of the Federal Bureau of Prisons, to accompany me to the hearing and to make a brief statement on the need for sound gun laws. I was greatly shocked to be greeted by repeated jeering, cat calls, and general disorder by a group of five to six hundred people.

This was not in response to anything I said, as it began the minute I approached the microphone to speak.

I found out later that this dreadful and disorderly demonstration was started by James E. Murray, III, who knows of my strong stand on firearms controls and is Chairman of the Connecticut State Board of Firearms Permit Examiners.

As I began my statement, Mr. Murray stood up, walked down the assembly aisle with some of his followers, and shouted wildly and repeatedly, "Close the hearing."

A member of my staff followed Murray into the hallway behind the speakers' podium and entered into a conversation with him.

Murray stated that he had arranged for these people to come from throughout the State of Connecticut who share his fanatic belief that every man should own firearms, unfettered by any State, Federal or local laws.

He freely admitted that he had "packed" the hearing room. He also stated that he had ordered his "pro" gun people to pack the second floor gallery and to sit there all day if need be, so that the gun owners would dominate the meeting.

I am compelled to write to you today and to say in the strongest terms that Mr. Murray is totally unqualified and unfit to remain as the Chairman of the Board of Firearms Permit Examiners.

He has proven by his behavior, not only yesterday but on many previous occasions, to be totally irresponsible, a threat to law and order, and, in fact, emotionally unstable.

He has promoted such outbursts directed at me and my staff on previous occasions, but yesterday's occurrence was by far the most vicious and the most dangerous public performance I can recall in my years of serving the State of Connecticut and the United States Congress.

I feel that as a citizen and as a representative of the State of Connecticut, I have every right to demand his resignation, and I hereby request that, as the Governor of the State of Connecticut, you take the steps to

see that he is removed as Chairman of the Board as soon as possible.

Very truly yours,

THOMAS J. DODD,
U.S. Senator.

INCREASING THE SIZE OF THE BOARD OF DIRECTORS OF GALLAUDET COLLEGE

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 18203.

The PRESIDING OFFICER laid before the Senate H.R. 18203, to increase the size of the board of directors of Gallaudet College, and for other purposes, which was read twice by its title.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, was read the third time, and passed.

CHANGES IN PASSPORT LAWS

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1418.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1418) to make several changes in the passport laws presently in force, which was, on page 2, line 5, strike out "$13" and insert "$10".

Mr. BYRD of West Virginia. Mr. President, under present law, a passport is valid for a period of 3 years and may be renewed for a further period of 2 years. The passport applicant is required to pay a fee of $9 for his passport plus an execution fee of $1 or $2, depending upon where he applies for the passport. The cost of renewing the passport for an additional 2 years is $5. Thus, the total cost of a 3-year passport, renewed for an additional 2 years, amounts to $15 or $16.

As passed by the Senate, S. 1418 provided for a 5-year passport at a total cost of $15—$2 for the execution fee and $13 for the passport. The House amended the Senate bill to provide for a passport fee of $10 plus a $2 execution fee, or a total of $12. The reasoning behind the House action was that the reduction in workload in providing for a passport of longer validity warranted a reduction in the cost to the traveling public.

Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

INDEPENDENT OFFICES AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1969

The Senate resumed the consideration of the bill (H.R. 17023) making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1969, and for other purposes.

Mr. MAGNUSON. Mr. President, the independent offices and Department of Housing and Urban Development appropriation bill for 1969, H.R. 17023, as reported, totals $15,546,552,000 in new obligational authority, which is $2,510,401,950 under the appropriations for 1968, $2,807,165,300 under the estimates for 1969, and an increase of $1,875,916,000 over the House bill.

In addition, appropriations are included to liquidate contract authority amounting to $122 million, and contract authorization of $65 million is included for the rent supplement program.

The largest amount included in the bill for one agency is $6,977 million to the Veterans' Administration, of which $4,654 million is for compensation and pensions and $1,420 million is for medical care.

The next largest amount is for the National Aeronautics and Space Administration, $4,008 million.

Next is the Department of Housing and Urban Development, under title II of the bill, amounting to $3,060 million, of which $1 billion is for model cities and $1,300 million is for advance funding of urban renewal for 1970. Urban renewal appropriations for 1969 were provided in last year's appropriation bill under the advance funding procedure.

After those come the General Services Administration, with $499 million, and National Science Foundation, with $410 million.

Of the increase over the House bill, $1,831 million is in the Department of Housing and Urban Development, largely made up of two items, model cities and urban renewal; and $44 million is the total of all increases for independent offices.

The housing authorizations for model cities and urban renewal are now pending in conference and were not considered by the House in this appropriation bill. That is the reason for the increase over the House bill. However, the Senate bill as reported is still $2,807,165,300 under the budget estimates for 1969.

One committee recommendation is over the budget estimate—an increase of $15 million for grants for basic water and sewer facilities. This is a line item in title II. The total amount of this bill is under the budget.

That is the substance of the bill.

Mr. President, my distinguished colleague from Colorado [Mr. ALLOTT] is here. I want to state for the RECORD that this is the 14th year that I have handled the independent offices appropriation bill as chairman of the subcommittee. It is the 10th year for Senator ALLOTT as the minority leader on the subcommittee. It is the 20th year for Earl Cooper as clerk of the committee. It is the fourth year for Harley Dirks as assistant clerk.

In all those years that we have handled this bill, in a time of economy, I think the figures will prove that we have not just been thinking about economy recently. The net reductions below the budget estimates for these last 14 years have amounted to $7,708,657,715.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. MAGNUSON. I yield.

Mr. LAUSCHE. What is the total amount of the reduction below the present budgetary request?

Mr. MAGNUSON. It is $2,807,165,300 under the budget estimate for 1969.

Mr. LAUSCHE. How much is the appropriation above the House figure?

Mr. MAGNUSON. It is $1,875,916,000.

Mr. LAUSCHE. The Senator stated that time had something to do with the change in the figure.

Mr. MAGNUSON. The new housing bill authorization was not considered by the House in passing this bill. The main additional authorizations the Senate committee provided for are in two items, model cities and urban renewal.

Mr. LAUSCHE. I thank the Senator.

Mr. MAGNUSON. Over the years we have been hoping that somebody would pay some attention to the fact that we scrutinize these requests very carefully. This bill covers some 26 agencies and a department. In that time we have been under the budget request a total of $7,708,657,715.

Mr. President, we usually ask unanimous consent at this time that the committee amendments to H.R. 17023 be agreed to en bloc; that the bill, as so amended, be considered as original text for the purpose of further amendment; and that no points of order will be waived.

I have not presented that request. The Senator from Delaware has asked that we do not do it tonight, because tomorrow some additional amendments will be ready that apply to this appropriation bill.

Mr. SPARKMAN. Mr. President, I have submitted an amendment to the appropriations bill to increase the appropriations under section 701 of the Housing Act. I have discussed it with the chairman. I think he understands. The committee gave the full amount that had been authorized at the time the committee acted on the bill, but in this year's Housing Act we have provided additional coverage for section 701 planning to take place in metropolitan areas, counties, and other areas, and there is no money to take care of that.

Mr. MAGNUSON. The committee discussed this matter at great length. The committee finally agreed on the figure contained.

Mr. SPARKMAN. That is all that was authorized at that time.

Mr. MAGNUSON. I know the Senator from Alabama has a great interest in this matter. We will have to have a rollcall vote on his amendment.

Mr. SPARKMAN. I am not asking the Senator for an agreement to take the amendment. The amendment is at the desk. I am not calling it up.

Mr. MAGNUSON. Some members of the committee wanted an increase over the amount reported. The figure in the reported bill was the amount agreed to.

Mr. SPARKMAN. Let me remind the Senator that at the time the appropriation was made, the committee went to the full extent of the authorization, and an additional authorization——

Mr. MAGNUSON. We discussed adding additional funds, subject to new authorization.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. ALLOTT. I think the RECORD is a little garbled here. At the time the Appropriations Committee passed on the bill, the Senate had passed the authorization bill, so the full amount the Senator is talking about was authorized as far as the Senate Appropriations Committee was concerned.

Mr. MAGNUSON. And we discussed it in marking up this bill.

Mr. SPARKMAN. I will accept that, but there was no provision for the extension of section 701 planning, which this year's bill put in. The money was exactly what was authorized under existing law.

Mr. ALLOTT. I think that is quite true, but I think it is very important to understand that at the time the committee acted upon this bill, the Senate had passed the authorization of which the Senator from Alabama is speaking. Therefore, they were authorized to put that full amount, if we had wished to, in the Senate appropriation bill, subject of course, to final passage by the House. But the Senate committee did consider it and, under the rules of the Senate and the joint administrative practice, we were entitled to.

Mr. SPARKMAN. Mr. President, may I say that the amendment is submitted in behalf of myself, and Senators CLARK, SCOTT, and HATFIELD. I hope tomorrow to present the amendment to the Senate, but I wish to make a statement on it at this time.

My amendment will provide for an appropriation to implement section 701 of the Housing Act which is precisely that requested by the administration. Section 701 of the Housing Act provides for a program of metropolitan and regional planning.

The 701 planning assistance program of the Department of Housing and Urban Development was established in the Housing Act of 1954. In the past, the 701 planning program has been available to cities under 50,000, to counties, to State planning agencies, to councils of governments, and to regional planning commissions. Last year's appropriation for 701 was $45 million. The amount proposed in the current appropriations bill before this body today is $38.8 million, a reduction of $6 million. The administration requested $55 million for the 701 planning assistance program this year.

The 701 planning assistance program has become the only funding source encouraging comprehensive planning for cities, counties, States, and metropolitan areas. The planning under 701 has not only included the development of plans for physical facilities but, increasingly, programs for coordination and implementation of planning efforts. Within the last 2 years 701 funding has substantially assisted the planning efforts of the States and our metropolitan areas. With the growing number of Federal grant programs, this planning is crucial so that States, local governments, and more importantly, the Federal Government will spend their dollars for public works and other projects which are coordinated and consistent with a logical plan for growth and development.

First. The demand from the groups presently funded under 701 amounted to more than $75 million last year, which is almost double our proposed appropriation. The peak in this demand is not fully known even today because of the tremendous growth in the number of regional councils in metropolitan and rural areas and State planning operations. Since the beginning of 1966 there have been more than 75 new regional councils created which are eligible for 701 planning assistance. There is no reason to suspect at this time that this rapid growth in the creation of these new cooperative endeavors will subside in the near future, consequently placing even greater demands on the limited resources available for planning assistance.

Second. Besides the growth in demand of presently eligible agencies for 701 planning, the Housing Act of 1968, which we recently approved, makes four new groups eligible for 701 planning assistance. These groups are first, multicounty nonmetropolitan area cooperative agencies; second, multistate regional commissions; third, economic development districts of the Economic Development Administration; and, fourth, cities over 50,000 population. It is conservatively estimated that these new groups will require $50 million in funding this year alone. Of particular interest is the fact that 701 planning assistance will not be available to nonmetropolitan area groups, such as councils of governments, for planning and coordination. If the appropriation is not increased from $38.8 million, there will be no funds available to get these essential endeavors underway. I urge that the appropriation for 701 planning assistance be increased to $55 million, which is the amount recommended by the Administration.

At the time the bill was passed by the House and at the time it was reported by the Appropriations Committee here in the Senate, the remaining unused authorization was only $38,838,000, and the amount provided in the House bill and the amount recommended by the Senate committee was set at that figure. Of course, at that time no one knew whether or not the authorization would be increased. At this point, however, we know that both the Senate and the House versions of S. 3497, the Housing and Urban Development Act of 1968, provide for an increase in the authorization for the section 701 program to $265 million, which is more than adequate to cover the $55 million appropriation recommended by the administration.

Mr. President, the 701 planning program provides not only for urban planning but provides for regional planning which is of tremendous assistance to rural areas which are developing or which desire to develop. This program can make a significant contribution toward curbing the out migration of rural people to our cities. I know that I need not go into detail regarding the problem which this out migration is presenting to our Nation today. I urge the Senate to provide for an appropriation in the amount requested by the administration, which is what my amendment will do.

JAVITS CALLS FOR AN ACTION PROGRAM TO BRING ABOUT MIDDLE EAST PEACE

Mr. JAVITS. Mr. President, I wish to address some remarks to the Senate on the situation in the Middle East, immediately following the visit of President Nasser of the United Arab Republic to Moscow.

It is essential that the world not be misled by President Nasser's disappointment with the results of his most recent pilgrimage to Moscow. For it is clear that he is engaged in an ambitious and dangerous political offensive aimed at enabling him to repeat his accomplishments of 1957—winning the peace after losing the war. For President Nasser seems to have learned nothing and forgotten nothing.

The Moscow trip—with its vague talk of "further joint steps" in the Arab-Israeli conflict; with its coy intimation that Israel may get transit for cargoes on the Suez Canal, and with talk of feelers to see what Israel would consider "secure boundaries" in accordance with the Security Council's November 22 resolution—represent salami tactics designed to cut away at the real issue. The issue is whether or not President Nasser really means to get a Middle East peace.

There is no indication that the Egyptian President has experienced a change of heart since June of 1967. Therefore, the continuing openly expressed Arab intention of preparing for "another round"—one in which they hope to bring down Israel and annihilate its people—must therefore still be considered by the world to remain valid.

The people of Israel certainly prefer peace to war; peace means survival to them. But the bitter lesson of 1957 taught the Israelis that paper promises are no guarantee of peace and provide no substitute for resolute self-defense as a means of deterring war.

In the weeks preceding the 6-day June war, it was the Arabs who reminded the world in shrill tones that a state of belligerency between the Arabs and Israeli has never ended and that armistices and ceasefires fail to alter the "right" of the Arabs to pursue their belligerency through acts of war, at times and places of their own choosing.

This historical lesson is pertinent today because the United States played a key role in persuading Israel to accept the Jerry-built arrangement of 1957 which collapsed at a crucial moment a decade later. The grave defects of the 1957 arrangement are clear. First, the Arabs agreed to nothing which was binding from their view. Second, the United States offered "assurances" to Israel, in return for Israel's withdrawal from the Sinai which this Nation was later unable to fulfill.

The United States was unable to fulfill its assurances in 1967 not because we were guilty of bad faith, but because our own security situation had changed radically from what it was when these assurances were first given. A decade

later, the United States was deeply involved in the quicksand of Vietnam. A decade later, the U.S. 6th Fleet no longer held unchallenged sway over the Mediterranean, as we found ourselves maneuvering eyeball to eyeball with a powerful Soviet flotilla.

This revised Middle East power structure, which involves an open confrontation between American and Soviet nuclear-armed forces, is what makes the need for a lasting and durable peace in the Middle East so important, not only to the nations of the area, but to the whole world. Without such a real peace, a peace with clearly defined enforcement procedures, there is every danger that a renewal of the fighting could quickly involve the world's two nuclear superpowers.

The present situation is unsatisfactory. Hardly a day goes by without fresh reports of Arab terrorist raids behind Israeli lines or of firing across the ceasefire lines. Yet, bad as it is, the present situation is far preferable to again having to pull President Nasser's chestnuts out of the Middle East fire as we had to do in 1957, and as he is trying to make us do now. Nasser's trip to Moscow was preceded by hints of Egyptian peacefulness and the desire to be reasonable. Semiofficial sources in Cairo let it be known that Egypt might be willing to accept United Nations peace-keeping forces back in the Sinai if the Israelis agreed to withdraw, though it was the Egyptians themselves who had ordered that force out, when it thought the result would be a sweep of its Soviet-equipped army over Israel in June of 1967. Indeed, there were hints that such a prior Israeli withdrawal might even be rewarded with eventual permission from Cairo to allow Israeli cargo to move its cargoes through the Suez Canal.

The Egyptian Foreign Minister implied, in a cryptic sentence to a reporter in Copenhagen, that the Arabs had been mistaken in failing to acknowledge the reality of Israel's existence. But this final gambit predictably brought an immediate protest from militant Arab circles and Cairo promptly let it be known that the Foreign Minister had been misquoted. How does one deal with this smokescreen of words which hint at something and promise nothing?

In my judgment, it is essential that we in the United States, especially, keep cool. This will require steady nerves. Yet there are some indications that such patience and resolution will pay off. Premier Kosygin's recent indication that his government is interested in an arms limitation agreement in the Middle East suggests that the Arabs may at last see that their dreams of revenge and military conquest have reached the end of the line.

I ask unanimous consent that a press report from Geneva dated July 16, 1968, reporting that the Soviet delegate to the disarmament conference indicated the U.S.S.R.'s conditional interest in an agreement on limitation of shipments of arms to the Middle East, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. The apparent failure of President Nasser and his military commanders to extract any significant new military aid from Moscow suggests the same thing.

It must be demonstrated to Arab militants that the world will no longer accept a false peace in the Middle East.

In that connection, Mr. President, we have received today news of a military coup against the Iraq Government. The Baghdad radio reports that one of the complaints of the new council is of the old regime's alleged "prevention of the Iraq Army from facing the Israelis during the June war and covering up for imperialists and zionist espionage rings."

If that is what the Aref regime is being accused of, Mr. President, when, as I say, it was one of the most fanatical and anti-Israel governments in the whole Middle East, we can understand very clearly how difficult it is to deal with the Arab militants and how important it is to keep cool, and not jump at the bait until something is really going to happen with respect to a permanent peace. Once the Arab militants see that the world will not accept a false peace, perhaps they will finally sit down with the Israelis to hammer out a viable peace settlement—one which will be a boon to all the people of that beleaguered area.

I have no doubt that when that day comes—the day that the Arabs show a plain readiness to talk plainly—that they will find Israel steadfast in pursuit of peace, but not hard or vindictive in her terms, notwithstanding her great victory in June 1967.

Until that day comes, the United States must demonstrate to Egypt and the Soviet Union, by maintaining the arms balance and by other means, that this Nation will not be induced by hints of Arab reasonableness—such as we have recently heard and which sound like an echo of the false siren songs of 1957–58 and without the substance of a mutually offered peace settlement—to pressure Israel to withdraw from the territories it holds. The Israelis should not do so before the Arabs sit down and work out a durable peace—yet this is clearly the main hope and premise of Cairo's current "peace offensive."

It is most revealing that at the very time President Nasser was in Moscow, Cairo played host to a meeting of the two rival Arab terrorist organizations, the Palestine Liberation Organization and Al Fatah. According to press reports, close coordination of the guerrilla efforts of the PLO and Al Fatah was agreed upon—signaling an escalation of Arab terrorism behind Israel's lines. This problem may prove to be too urgent and too incendiary to await a final peace treaty, and perhaps should be the subject of immediate United Nations action. Earlier, I supported Ambassador Goldberg's call in the Security Council for the positioning of United Nations Observers along the banks of the Jordan River. I urge that this proposal be given urgent consideration now, in light of the joint action proposals of the PLO and Al Fatah, and the increased threat to peace which this step represents.

We need a U.S. policy that is more viable and consistent—compatible alike with our security, experience and with the achievement of a lasting peace in the Middle East. It is consistent also with the six points issued by Vice President HUMPHREY, on July 11, 1968. But this is an action program and that is what we need today.

The statement of objectives put out by the Vice President is fine. But we need to do more to attain these objectives. For the unresolved Arab-Israeli conflict also serves as a hot spark that could at any time enflame relations between the United States and the Soviet Union. In 1 day all that we are doing to arrive at a general understanding with the Soviet Union could be undone by a renewal of war in the Middle East.

I suggest that the United States adopt the following five-point policy:

I. NEW SECURITY COUNCIL RESOLUTION

The Security Council resolution of November 22, 1967 does, in my judgment, represent a suitable basis for negotiations between Israel and the Arab States. However, if—as now seems likely—this resolution proves inadequate to the task of getting real negotiations started among the nations involved, stronger inducements must be considered by the international community. The United States and the Soviet Union have the prime responsibility in this regard. Together they should jointly sponsor a new Security Council resolution which specifically addresses itself to the way in which negotiations are to be carried on to implement the resolution of November 22, and, therefore, would get over the hurdle of the refusal of the parties to talk to each other or even to talk to each other through Ambassador Jarring.

II. MIDDLE EAST ARMS CONTROL AGREEMENT

The rising level of renewed violence in the Middle East gives new urgency to the need for a viable agreement to limit the supply of arms from outside the area. The possession of sophisticated weapons by irresponsible States feeds the flames of violence, and violence in turn stimulates the search for sources of arms supply. This vicious and highly volatile cycle needs to be broken. It is an urgent area for United States-U.S.S.R. initiative and cooperation. The United States-Soviet agreement on a nonproliferation treaty suggests that there may be a new opening for agreement on the control of arms supply to the Middle East.

If the Soviet Union continues to be unwilling to reach an agreement on limiting the supply of arms to the Middle East—indeed, until such time as a workable agreement is actually reached—it will be essential for the United States to assure that there is an arms balance by providing Israel with such sophisticated military equipment as is needed for its security and which it cannot obtain elsewhere.

The new buildup of sophisticated Soviet weaponry in Arab hands indicates that the time for the granting of the Phantom jets to Israel, which it has sought for so long, may be close at hand unless there is a rather immediate action with relation to an arms limitation agreement.

III. INITIATIVE IN NATO

There is scope for a Presidential initiative within the councils of NATO, also. The common interest of our West-

ern European allies and the United States in a just and durable peace in the Middle East is patent. NATO has a role as NATO in meeting the threat and the challenge presented by the Soviet naval buildup in the Mediterranean and by turmoil in the Middle East from which many NATO powers draw their energy resources.

The British withdrawal from east of Suez, by dramatizing the loneliness of the U.S. position outside of Europe, emphasizes the need for us to find new modes of assistance with the burdens of peace-keeping. The final withdrawal of Britain, and the earlier withdrawal of other European powers from colonial-based positions, demonstrates that our close Allies do not have the capacity or the willingness to play a world power role as an individual nation-state.

Perhaps a new collective role is possible. The proceedings of the NATO Ministerial Council at Reykjavik give such a hope. Given the direct and immediate stakes which Western Europe has in the Mediterranean, there is every inducement for NATO to concert the actions and policies of its members in the Middle East.

IV. NEW INTERNATIONAL INITIATIVE ON ARAB REFUGEES

It is time for a major new international initiative on Arab refugees, which approaches refugees as individuals with human welfare problems and needs. Refugees are people and ought to be freed from bondage to political issues and considerations of political symbolism. Refugees should not prejudice the settlement of political differences and, conversely, should not be prejudiced by the impasse on the political aspects of an overall settlement. The old UNRWA approach is now clearly outmoded. It is nothing but a holding and custodial operation. It should be superseded by a new effort of terminal character which is thereby self-liquidating rather than self-perpetuating.

V. NEW MIDDLE EAST COOPERATIVE GROUPING

In the past, the U.S. approach to the question of regional groupings in the Middle East has revolved around the concept of a military pact. There were major defects in this approach and past efforts foundered. What is needed now is a new approach which avoids the pitfalls of the old approach.

The United States has friends in the Middle East—countries which not only share interests with us, but which also share common interests among themselves. Expanded to its broadest common denominator, all nations of the area have a common interest in the economic development and improving the welfare of their citizens. However, the nations of the Middle East are broadly divided on political lines into those who are moderates and those who are radicals.

In isolation, the moderates are exposed to severe political pressure from the radicals, to which is now increasingly being added direct Soviet pressure.

Accordingly, I urge that the most intensive and imaginative study be undertaken by the State Department on the question of what form of new regional grouping can be developed in the Middle East which will provide a political rallying point for our friends and an institutional framework for scientific, economic and technical cooperation. Moreover, I wish to make it clear that Israel need not participate—either at the outset or for an indefinite period of time—if its inclusion would create political obstacles which outweigh the undoubted contributions it could make. There, we are indebted to Admiral Strauss and President Eisenhower for their very creative proposals on this subject.

Perhaps there is now scope for broad regional economic planning; regional surveys of needs and potentialities; regional educational and research institutions; a science and technology pool. What needs special attention are the interrelated questions of agricultural development and water resource development and control, including the possibilities of water desalination through the use of atomic energy. Perhaps there is also scope for regional transportation and communications development, which could have incidental bearing on the problems related to the closure of the Suez Canal.

It is not necessary to state now just what type of regional institutions are most needed and most feasible in the Middle East at this juncture. But I am convinced of the need for a new effort in this direction by us.

EXHIBIT 1

JOHNSON HOPEFUL ON DISARMAMENT: MESSAGE TO PARLEY AT GENEVA SAYS UNITED STATES AND SOVIET UNION WILL SCHEDULE TALKS SHORTLY

GENEVA, July 16.—President Johnson informed the Disarmament Conference here today that the United States and the Soviet Union expected to decide "shortly" the time and place for their proposed talks for limiting ballistic missiles.

In a message to the conference as it began a new session, the President said that should progress be achieved on limiting rockets and other systems for delivering nuclear warheads, the United States was "prepared to consider reductions of existing systems."

In this way, Mr. Johnson continued, "we would cut back effectively—and for the first time—on the vast potentials for destruction which each side possesses."

STRESSES REGIONAL PACTS

The President urged the conference to begin consideration of a "workable, verifiable and effective international agreement" to bar the use of the seabed for the "emplacement of weapons of mass destruction."

In the message, read by William C. Foster, head of the United States Arms Control and Disarmament Agency, Mr. Johnson placed particular stress on the need for regional agreements to limit armaments.

The United States, he said, is ready to respect any regional arms pact. It would support, he continued, any "reasonable measures affecting the activities of the major weapons-producers that would make a regional agreement more effective."

The President suggested that one such measure could be a requirement that suppliers "publicize or register their arms shipments to a particular region."

The Soviet Union also proposed today that the conference take up the questions of the demilitarization of the seabed and regional arms agreements. But it did so by formally introducing the nine-point memorandum on arms measures that Soviet Premier Aleksei N. Kosygin announced on July 1.

OFFERS MIDEAST CURBS

Aleksei A. Roshchin, the Soviet delegate, presented the memorandum. The Soviet Government said in this document that it was ready to support limitations on the shipment of arms to the Middle East. This support was made conditional on the evacuation by Israel of all Arab territory occupied during the war of June, 1967.

Fred W. Mulley, the British disarmament negotiator, introduced specific proposals aimed at breaking the deadlock between the United States and the Soviet Union that excluded underground blasts from the ban on nuclear testing imposed in 1963 by the Moscow Treaty.

The British would have a seven-member jury decide whether the on-the-spot inspection, wanted by Washington and rejected by Moscow, was required to determine whether a particular earth tremor regarded as suspicious by one side was in fact due to natural causes.

CONCESSION IS RULED OUT

The jury would be composed of representatives of three nuclear and three non-nuclear powers and a representative of the United Nations Secretary General or of the Director General of the International Atomic Energy Agency.

A Soviet spokesman, however, ruled out the possibility that Moscow would accept any arrangement that would make even a minimum concession to the view that inspection might be required to guard against sneak underground nuclear tests.

There was no official comment from United States sources, but Washington is known to be reluctant to accept any plan that would circumscribe the right to determine for itself when it should exercise the inspection privileges it insists it must have to guarantee the effectiveness of an underground test ban.

Mr. Mulley also suggested today that the conference begin exploring the problem of chemical and biological warfare. He said he would soon put forward "positive and specific proposals" that he hoped would lead to early action in this field.

MESSAGE FROM THANT

In a message to the conference, Secretary General Thant of the United Nations said that the group's "prime function" should be to select subjects that are "most important and most amenable to early agreement."

The expectation is that most of the current session, which is expected to last six weeks, will be taken up by this search for items on which the conference can negotiate at future sessions.

Prime Minister Wilson said in a message that the recent conclusion and opening for signature of the treaty banning the spread of nuclear weapons paved the way for further arms limitation measures.

"This is a tremendous opportunity which must be exploited to the full," Mr. Wilson said.

Mr. President, the Senator from Michigan [Mr. GRIFFIN] had hoped to be present to participate in a colloquy with me about my speech. He found it impossible to be present. I ask unanimous consent that his statement relating to my speech be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GRIFFIN

Mr. President, the Senator from New York has expertly reviewed a number of urgent problems which still block the path to peace in the Middle East.

I commend him for once again bringing this explosive situation to the attention of the Senate. His recommendations with respect to American policy should be carefully studied by officials in the executive branch, including the President and the Secretary of State.

More than a year has passed since the third outbreak of hostilities between Israel

and her Arab neighbors. Yet, there has been little progress in the interim toward reaching a peace settlement between the parties. The Suez Canal remains closed to world shipping. And acts of terrorism and reprisal are commonplace along the truce lines.

In the final analysis, a durable and stable peace in the area can only emerge when Israel and the Arab countries begin to deal objectively with the facts of their situation. For, at the root of the crisis lie basic political differences—and these must be resolved if further conflict is to be averted.

But, at the same time, much of the bitterness and belligerence in the Middle East has been fueled by outside interests. Specifically, the unending flow of arms into the area has contributed to the chronic instability and mutual suspicion which fan the flames of violence and ambition.

The vicious cycle of arms procurement must be broken and, as the Senator from New York points out, the great powers which supply the weapons should assume at least a partial responsibility in reaching a workable arms control agreement.

As I have previously stated, I believe that the recently-signed Nuclear Non-Proliferation Treaty embodies a number of useful concepts which could be applied regionally to conventional arms control.

It is apparent that time is fast running out, and that a bold, new initiative is needed to effectively halt the spiraling arms race.

For this reason, I have introduced S. Res. 293, calling upon the President to propose a U.N.-sponsored conference for the purpose of negotiating a non-proliferation treaty on conventional weapons for the Middle East.

Under the proposal, the negotiations would be undertaken by the supplier nations as well as the countries of the Middle East which receive the weapons. Such a procedure would ensure that the rights and security interests of all affected parties are adequately protected.

While the problems of the Middle East may appear insoluble, the United States cannot afford to simply let events take their course, without actively prusuing possible areas of agreement. Clearly, the objective of effective arms control represents an immediate and overriding need. Laying the basis for such an agreement now could be the first and vital step in our government's endeavor to reduce tension and to deter further aggression in this volatile region.

AUTHORIZATION FOR PRINTING H.R. 18366 AS AMENDED—S. 3770 INDEFINITELY POSTPONED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that H.R. 18366, an act to amend the Vocational Education Act of 1963, and for other purposes, be printed as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the companion bill, S. 3770, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. BYRD of West Virginia. Mr. President, in my response earlier today to the query by the distinguished minority leader regarding the schedule of business for the remainder of the week and the early part of next week, I may have misled some of my colleagues. If I did so, it was certainly without any intention to do so.

When the majority leader secured his consent to be absent from the Senate for the remainder of the afternoon today, I was off the floor. I understand that he attempted to locate me, but this was one of those rare instances in which I could not be located in the vicinity of the Senate floor, and for this reason the majority leader was unable to discuss with me, before his departure, the schedule of business. It was no fault of the majority leader. It was simply one of those situations, which happen from time to time, in which I was not in the Chamber or in the vicinity of the Chamber and could not be found by the majority leader.

Mr. President, in an effort to clarify the situation, perhaps—hopefully, at least—I should like to say that it is my understanding that following the action of the Senate on the Independent Offices appropriation bill, which is the pending business, the Senate will proceed to the consideration of the Public Works appropriation bill.

I am not aware of the exact order of the Senate business after action on these bills has been completed. The renegotiation bill, the farm bill, the Department of Transportation appropriation bill, the mutual fund bill, and the flexible interest rate bill are the most likely. Whether any of these bills will be considered on Friday, Saturday, or Monday, and in what order, I believe the majority leader will make clear upon his return to the Senate tomorrow. Suffice it to say that as of now, at least, there is ample indication that the Senate may be in session on Saturday. I feel that Senators should thus be put on notice, at least until the majority leader states otherwise, and only he can do this upon his return tomorrow.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, in accordance with the previous order, and in compliance with Senate Resolution 378, as a further mark of respect in memory of the Honorable Joe Pool, a Representative from the State of Texas, I move that the Senate stand in adjournment until 12 noon tomorrow.

The motion was unanimously agreed to; and (at 6 o'clock and 7 minutes p.m.) the Senate adjourned until tomorrow, Thursday, July 18, 1968, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 17, 1968:

OFFICE OF ECONOMIC OPPORTUNITY

Bertrand M. Harding, of Virginia, to be Director of the Office of Economic Opportunity, vice Robert Sargent Shriver, Jr.

IN THE MARINE CORPS

Lt. Col. Haywood R. Smith, U.S. Marine Corps, for temporary appointment to the grade of colonel, to hold such grade while serving as Armed Forces Aide to the President.

IN THE ARMY

The following-named person for appointment in the Regular Army, by transfer in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be second lieutenants

Hunt, William C., OF107758.
Smith, David D., OF108360.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be majors

Dechert, Louis T., O1881548.
Patrick, Gladwin, O957922.

To be captains

Boyleston, Graves L., O5304555.
Bullard, James R., O5345033.
Carter, Allen J., O5310730.
Fulkerson, Charles W., O3217227.
Gregor, Charles H., O5310602.
Hardaway, John A., O5404340.
Johnston, William B., O5213917.
Lane, Duane M., O2308387.
Keech, George R., O4063037.
King, James M., O5312157.
Leddy, John T., O2296593.
Martin, Ford G., O5401855.
Pagano, Philip C., O5255809.
Rafferty, John L., O5208059.
Rosenberg, Peter J., O5233702.
Sawyer, Ben M., Jr., O2280039.
Schlitz, Donald W., O5706935.
Sharp, Billy R., O2289561.
Silveria, Donald C., O5410304.
Smalls, Moses D., O4024106.
Vissers, Martin R., O4074862.
Watring, Watson G., O5540940.
Whitsett, Richard R., O5210926.

To be first lieutenants

Alleman, Jeanne F., N3114228.
Baldwin, Robert R., O5223054.
Baum, Edward S., O2332582.
Bell, Lester J., O2332010.
Blackwell, Paul E., O5318689.
Bowman, Robert P., O5326070.
Cocks, Alan R., O5229318.
Colby, Edward L., O5011563.
Dietze, William E., O2332601.
Fane, Larry R., O5520229.
Forbis, Merwyn C., O5302408.
Green, William D., O5214433.
Guthrie, Thomas B., O2320093.
Halversen, Gary L., O2332602.
Hay, Eugene F., O5217320.
Hightshue, David C., O5519552.
Hoppe, John W., Jr., O5415203.
Hoyer, Anthony X., O5321571.
Inzer, Edwin L., O5417056.
Jargowsky, Robert A., O2314153.
Johnson, Marshall R., O2325482.
Jones, Sonny, O5219557.
Juchau, Simmeon V., O5702076.
Katz, Stephen H., O5531424.
Kleppinger, Orville, O5325440.
Kulm, Gale B., O2317627.
Lull, Robert W., O5421029.
Lynch, Harold D., O5307617.
McDonnell, Wayne M., O5532056.
Nichols, John J., O5016830.

Pittman, John V., O5226677.
Riddle, John E., Jr., O5316131.
Ritterspach, Frederi, O5312473.
Robinson, Samuel F., Jr., O5322707.
Romero, Silvio J., O5418755.
Schreyach, Jon C., O5419057.
Schulke, Kurt P., O5530763.
Schurter, William A., O5710624.
Smith, Anthony D., O5320635.
Smith, Chester C., O5323236.
Smith, David L., O2325594.
Smith, Melvin, S., Jr., O5221573.
Sorensen, James R., O5419326.
Soron, Vitold J., O5016065.
Stanzione, Steven J., O5246885.
Tiedemann, John J., O2322261.
Tretschok, Dale D., O5709156.
Vilcoq, Paul M., II, O5415887.
Walther, John W., Jr., O5220822.
Williams, Gene R., O5711665.
Woolums, Cecil R., O5318114.

To be second lieutenants

Daniel, Donald C., O5415351.
Grau, Lester W., O5421760.
Harris, John F., Jr., O5426102.
Kammerer, Robert E., O5228891.
Mason, Danny L., O5333105.
Moore, Easley L., Jr., O5230023.
Murphy, Charles B., O5338505.
Pollok, James L., O5254218.
Rice, Jay A., O5334717.
Strickler, Gordon M., O5334479.
Willoughby, Michael J., O514536.
Zink, Gale R., Jr., O2311155.

The following-named distinguished military students for appointment in the Dental Corps, Regular Army of the United States, in the grade of first lieutenant, under the provisions of title 10, United States Code, sections 2106, 3283, 3284, and 3294:

Bushnell, John A.
Goodman, John T.
Woolweaver, David A.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Brown, Jerry L.
Gilbreath, Richard A.
Schmidt, Robert L.

THE JUDICIARY

Ruggero J. Aldisert, of Pennsylvania, to be U.S. circuit judge, third circuit, vice Austin L. Staley, retired.

Lewis R. Morgan, of Georgia, to be U.S. circuit judge, fifth circuit, vice Elbert P. Tuttle, retired.

Shirley M. Hufstedler, of California, to be U.S. circuit judge, ninth circuit, vice a new position created under Public Law 90-347 approved June 18, 1968.

James L. Latchum, of Delaware, to be U.S. district judge for the district of Delaware, vice Caleb R. Layton III, retired.

Alexander A. Lawrence, of Georgia, to be U.S. district judge for the southern district of Georgia, vice Frank M. Scarlett, retiring.

Orma R. Smith, of Mississippi, to be U.S. district judge for the northern district of Mississippi, vice Claude F. Clayton, elevated.

Hugh H. Bownes, of New Hampshire, to be U.S. district judge for the district of New Hampshire, vice Aloysius J. Connor, deceased.

Samuel M. Rosenstein, of Kentucky, to be judge of the U.S. Customs Court, vice Webster J. Oliver, retired.

HOUSE OF REPRESENTATIVES—*Wednesday, July 17, 1968*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

My soul waits upon God; from Him comes my salvation.—Psalm 62: 1.

O God of glory and Lord of life, we come to thee in this our morning prayer and waiting upon Thee we would turn away from the clamor and clatter of the confused world about us.

Help us to greet this new day with the joy of gratitude, to overcome our difficulties with increased devotion, to carry our burdens with added strength, and to meet all ills and accidents with a gallant and high-hearted happiness, giving Thee thanks always for all things.

Deliver us from disagreements which make us disagreeable, from differences which make a difference in our associations, and from resentments which ruin our relationships.

Make us adequate for every adjustment we have to make, ready for every responsibility we have to carry, and equal to every emergency which comes our way. In the midst of busy days may we not forget Thee or be unmindful that we are here to serve our people and to keep our country physically strong, mentally awake, and morally straight.

In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON MILITARY CONSTRUCTION APPROPRIATIONS, 1969, UNTIL MIDNIGHT FRIDAY

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight Friday, July 19, to file a privileged report on the military construction appropriation bill for the fiscal year 1969.

Mr. TALCOTT reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON DISTRICT OF COLUMBIA APPROPRIATIONS, 1969, UNTIL MIDNIGHT, JULY 18

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, July 18, 1968, to file a privileged report on the appropriations bill for the District of Columbia for the fiscal year 1969.

Mr. DAVIS of Wisconsin reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1004, CENTRAL ARIZONA PROJECT

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1004) to authorize the construction, operation, and maintenance of the central Arizona project, Arizona-New Mexico, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, JOHNSON of California, EDMONDSON, UDALL, SAYLOR, HOSMER, and BURTON of Utah.

APPOINTMENT OF CONFEREES ON S. 20, COMPREHENSIVE REVIEW OF NATIONAL WATER RESOURCE PROBLEMS AND PROGRAMS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 20), to provide for a comprehensive review of national water resource problems and programs, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, JOHNSON of California, HALEY, SAYLOR, and REINECKE.

MAILING OF MASTER KEYS FOR MOTOR VEHICLE IGNITION SWITCHES

Mr. NIX. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 14935), to amend title 39, United States Code, to regulate the mailing of master keys for motor vehicle ignition switches, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

"That sections 1 through 4 of this Act may be cited as the 'Auto Theft Prevention Act.'

"SEC. 2. (a) Chapter 51 of title 9, United States Code, is amended by adding at the end thereof the following new section: